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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO
PEREZ,

Plaintiffs,

-against-

Case No:
09-CV-5331

SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
LOUIS VECCHIA, CHRISTOPHER VECCHIA,
HELENE VECCHIA, and JOHN DOES 1-5,

Defendants.

-----X
October 29, 2011
10:05 a.m.

4875 Sunrise Highway
Bohemia, New York

EXAMINATION BEFORE TRIAL of CARLOS ALBERTO
ESCALANTE VARGAS s/h/a CARLOS ESCALANTE, one of the
Plaintiffs herein, taken by the Defendants,
pursuant to Article 31 of the Civil Practice Law
and Rules of Testimony, and Notice and order,
held at the above-mentioned time and place,
before Jaime Dochtermann, Notary Public of the
State of New York.

1

2 A P P E A R A N C E S:

3

4 LAW OFFICES OF LAUREN GOLDBERG, PLLC
5 Attorneys for Plaintiffs
6 501 Fifth Avenue
7 New York, New York 10017

8 (NOT PRESENT)

9

10

11 LAW OFFICES OF PATRICK E. McNAMARA
12 Co-Counsel for Plaintiffs
13 868 Little East Neck Road
14 West Babylon, New York 11704

15 BY: PATRICK McNAMARA, ESQ.

16

17

18 LAW OFFICES OF IAN WALLACE
19 Co-Counsel for Plaintiffs
20 501 Fifth Avenue
21 New York, New York 10017

22 (NOT PRESENT)

23

24

25 ZABELL & ASSOCIATES, P.C.
Attorneys for Defendants
4875 Sunrise Highway
Bohemia, New York 11716

BY: SAUL ZABELL, ESQ.

21

22

23 ALSO PRESENT:

24 Sandra Ramos Connor, Spanish Interpreter
25 Louis Vecchia

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the same
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer authorized
to administer an oath, with the same force
and effect as if signed and sworn to before
the Court.

1

2 S A N D R A R A M O S C O N N O R, the
3 Spanish Interpreter herein, was duly sworn
4 to interpret the questions from English
5 into Spanish and the answers from Spanish
6 into English to the best of her ability:

7 C A R L O S A L B E R T O E S C A L A N T E
8 V A R G A S, the Witness herein, having been
9 duly sworn through the Interpreter, was
10 examined and testified as follows:

11 EXAMINATION BY

12 MR. ZABELL:

13 Q Would you please state your full
14 name for the record.

15 A Carlos Alberto Escalante Vargas.

16 Q What is your current address?

17 A [REDACTED]
18 [REDACTED]

19 Q Good morning, everybody.

20 MR. ZABELL: Madam reporter, as
21 I'm sure you already noted, the time is
22 10:05.

23 We were scheduled to begin at
24 9:00. For whatever reasons, we have
25 began an hour-and-a-half late -- an hour

1 C. Escalante Vargas

2 and five minutes late. We were here at
3 9:00 prepared to proceed and plaintiff
4 was not. We are advising counsel for
5 plaintiff that they will be charged one
6 hour for the interpreter's time, because
7 the delay was caused by reasons on their
8 part.

9 MR. McNAMARA: Thank you,
10 Counselor. That is acceptable.

11 MR. ZABELL: Are we prepared to
12 proceed?

13 MR. McNAMARA: We are prepared to
14 proceed.

15 Q Good morning, Mr. Escalante.

16 A Good morning.

17 Q Do you have any identification?

18 A (Handing.)

19 Q Thank you.

20 MR. ZABELL: I am going to make a
21 photocopy of this for my records.

22 (Whereupon, a brief break was
23 taken at this time.)

24 (A document consisting of a copy
25 of Mr. Escalante Vargas' license was

1 C. Escalante Vargas

2 marked as Defendant's Exhibit 1 for
3 identification, as of this date.)

4 Q Mr. Vargas -- should I call you
5 Mr. Vargas or Mr. Esclanate?

6 A Esclanate Vargas.

7 Q Mr. Esclanate Vargas, I just put a
8 document that has been identified as Defendants'
9 Exhibit 1 of today's date. (Hanging.)

10 Do you know what that document is?

11 A (Reviewing document.) My license.

12 Q Thank you.

13 Mr. Esclanate Vargas, how are you
14 today?

15 A I'm fine.

16 Q Are you currently under the
17 influence of any medication?

18 A No.

19 Q Are you currently under the
20 influence of any drugs or alcohol?

21 A No.

22 Q When was the last time you had any
23 alcohol?

24 A No, I don't drink.

25 Q When was the last time you have

1 C. Escalante Vargas

2 had alcohol?

3 A No, no.

4 Q You have never had alcohol?

5 A No.

6 Q You need to answer all of these
7 questions verbally. Okay?

8 A Okay.

9 Q Where do you currently live?

10 A [REDACTED]

11 Q For how long have you lived at [REDACTED]

12 [REDACTED]

13 A Three years.

14 Q Do you live in a house or an
15 apartment?

16 A A house.

17 Q Do you own the house?

18 A Yes.

19 Q And for how long have you owned
20 the house?

21 A The three years.

22 Q Do you live alone, or do you live
23 with somebody?

24 A Family.

25 Q Can you tell me the names and the

1 C. Escalante Vargas

2 relationship of everybody in your family?

3 A Their cousins, far cousins.

4 Q How many cousins do you live with?

5 A One, two, three -- the cousin is

6 one. The cousin has his family and they have

7 three daughters.

8 Q Continue.

9 A They also have a small little boy.

10 Q Continue.

11 A Those are who I share the house

12 with.

13 Q Do you have a wife?

14 A Yes, but she is not here right

15 now.

16 Q Where is your wife?

17 A In my country.

18 Q What is your country?

19 A Honduras.

20 Q Has your wife ever been here in

21 the United States?

22 A Yes, at various times.

23 Q Why is she not here now?

24 MR. McNAMARA: Objection.

25 A She is there with my children.

1 C. Escalante Vargas

2 Q How many children do you have?

3 A I have two daughters of mine, and
4 I have one daughter here that is recognized --
5 that is like a first cousin, a first female
6 cousin.

7 Q You have a cousin that is also
8 your daughter?

9 THE INTERPRETER: Sorry. The
10 interpreter is having a hard time
11 understanding this relationship.

12 A The mom of the girl that I
13 recognized, she is the daughter of one of my
14 mom's sisters.

15 Q Did you take in one of your
16 cousins to raise as a daughter?

17 A No, no, you don't understand. She
18 is the daughter of one of my aunt's and she is
19 not my daughter, but I recognized her as my
20 daughter.

21 Q You raised her as your daughter?

22 A Yes, I help her, but she is in
23 North Carolina with her mother.

24 Q Who is her mother?

25 A Yenesia, my cousin.

1 C. Escalante Vargas

2 Q Is Yenesia married?

3 A No, she is not married.

4 Q Was she married?

5 A In my country, yes.

6 Q Do you know Edwin Rivera?

7 A Yes.

8 Q Was Yenesia ever married to Edwin
9 Rivera?

10 A No.

11 Q Do you know if they were ever
12 involved?

13 A No.

14 Q So Yenesia lives with her daughter
15 in North Carolina?

16 A Yes.

17 Q And Yenesia is one of your
18 cousins?

19 A Yes.

20 Q And her daughter, you treat as
21 your daughter?

22 A Yes.

23 Q Why?

24 A It's questions of family, our
25 family nature.

1 C. Escalante Vargas

2 Q Is Yenesia's daughter your
3 daughter?

4 A She is not my daughter, but I
5 recognized her.

6 Q Were you ever involved
7 romantically with Yenesia?

8 A No.

9 Q Okay. Now, you said that you have
10 two daughters that were born from you; is that
11 correct?

12 A Yes.

13 Q And they live in Honduras?

14 A Yes, they live there and they come
15 here.

16 Q Do you have any other children,
17 other than those two daughters, whether you
18 claim them or not?

19 A No.

20 Q And you have a wife in Honduras?

21 A Yes.

22 Q What is her name?

23 A Rosa Suyapa Ortega.

24 Q Are you actually married to her,
25 or do you consider her your wife?

1 C. Escalante Vargas

2 A No, married with her.

3 Q So you have a marriage
4 certificate?

5 A Yes.

6 Q From where is that marriage
7 certificate issued?

8 A From Honduras.

9 Q When did you marry her?

10 A 1993.

11 Q How come she hasn't come to the
12 United States?

13 MR. McNAMARA: Objection.

14 A She's come to the United States.

15 Q How come she doesn't live in the
16 United States with you?

17 MR. McNAMARA: Objection.

18 Q You can answer.

19 A She comes, she stays here, she
20 also goes there and she works there.

21 Q So other than your cousin, his
22 wife, and children, does anybody else live in
23 the house with you?

24 A Yes.

25 Q Who else lives in the house with

1 C. Escalante Vargas

2 you?

3 A Some friends of my cousins.

4 Q What are their names?

5 A No, I don't know their names.

6 Q So they live in your house, but

7 you don't know their names?

8 A No, because they are his friends.

9 They are not my friends.

10 Q But they live in your house?

11 A Yes.

12 Q And you have no idea what their

13 names are?

14 A No.

15 Q Are they authorized to live in the

16 United States?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q How do you know if you don't know

20 their names?

21 A Because my cousin told me.

22 Q What is your cousin's name?

23 A Joel Hernandez.

24 Q What is Joel Hernandez's wife's

25 name?

1 C. Escalante Vargas

2 A Maribell.

3 Q Do you work with Joel Hernandez?

4 A No.

5 Q Are you currently working?

6 A I work at Pioneer Asphalt.

7 Q Have you ever been deposed before?

8 A Yes.

9 Q When were you deposed before?

10 A A couple of days ago with Edwin --
11 no, wait, what are you asking me?

12 Q Do you understand that you are at
13 a deposition?

14 A I didn't know that.

15 Q This is called a deposition.

16 Do you understand that; yes or no?

17 A In what sense?

18 Q This is called a deposition.

19 Do you understand that; yes or no?

20 A Now I do.

21 Q At this deposition, I am going to
22 be asking you questions.

23 Do you understand that?

24 A Okay, yes.

25 Q Yes, you understand that?

1 C. Escalante Vargas

2 A Yes.

3 Q You are required to provide
4 answers to all the questions I ask you.

5 Do you understand that?

6 A Yes.

7 Q Your answers are required to be
8 truthful and honest.

9 Do you understand that?

10 A Yes.

11 Q Do you understand that if you lie
12 while you are under oath today, there are
13 consequences that may include criminal
14 penalties?

15 A Yes.

16 Q That has been explained to you?

17 A Yes.

18 Q If you do not understand a
19 question that I ask you, you have an obligation
20 to tell me that you do not understand that
21 question.

22 Do you understand that?

23 A Yes.

24 Q If you provide an answer to a
25 question I ask you, it will be assumed that you

1 C. Escalante Vargas

2 understood the question.

3 Do you understand that?

4 A Yes.

5 Q You can take a break at any time
6 you would like, as long as you answer the
7 question pending before you before taking that
8 break.

9 A Yes.

10 Q Do you understand the terms of
11 this deposition as I've explained them to you?

12 A Yes.

13 Q Are you willing to proceed under
14 those terms?

15 A Yes.

16 Q Do you have a memory?

17 A Yes.

18 Q Would you consider your memory
19 good, bad, or average?

20 A Good.

21 Q And why do you believe your memory
22 is good?

23 A Because I studied and I think that
24 helps me out with some things.

25 Q Did you prepare for this

1 C. Escalante Vargas

2 deposition in any way?

3 A No.

4 Q Did you speak with your attorney
5 just before the beginning of this deposition?

6 A No.

7 Q I saw you talking to him.

8 A Yes, but he said hello to me.

9 Q All he said was hello to you?

10 A Yes.

11 Q Mr. Esclanate Vargas, I told you
12 that you can't lie here today. I saw him speak
13 to you using the services of madam interpreter
14 and talk to you about what is going to happen at
15 this deposition and answers that you had to give
16 at this deposition.

17 Why are you lying about that
18 occurring?

19 MR. McNAMARA: Objection.

20 A But you were saying when I came
21 in, not when I was already here sitting down.
22 Okay?

23 Q Look. If we are going to start
24 off today with you lying to me, it's not going
25 to go well for you.

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 Q Do you understand that; yes or no?

4 A Yes, I understand.

5 Q Okay. Did you, before this
6 deposition, meet with your attorney?

7 A Okay, yes.

8 Q And did he tell you how to answer
9 questions; yes or no?

10 A Yes.

11 Q Okay. You see? That is all I
12 wanted. There is no reason for you to lie about
13 that.

14 MR. McNAMARA: Objection.

15 Q Do you understand?

16 A Yes.

17 Q Do you want to apologize for lying
18 about that?

19 MR. McNAMARA: Objection.

20 A If there is an apology, yes,
21 because I didn't understand the question. If
22 it's here or if it's when he came in. Because
23 this is the first time I meet him...

24 Q I accept your apology.

25 A Okay.

1 C. Escalante Vargas

2 Q Are you represented by counsel
3 here today?

4 A Yes.

5 Q And who is your attorney?

6 A The only name that I know of his
7 is Patrick.

8 Q Is he the fellow to your right?

9 A Yes.

10 Q Do you feel that you are
11 adequately represented by counsel here today?

12 A Yes.

13 Q Has he requested any money from
14 you?

15 A No.

16 Q Do you have any attorneys, other
17 than the individual you identified as Patrick to
18 your right?

19 A Yes.

20 Q And who are they?

21 A Ian and Lauren.

22 Q When was the last time you saw Ian
23 and Lauren?

24 A Two weeks ago.

25 Q Where were you when you saw them

1 C. Escalante Vargas

2 two weeks ago?

3 A I was in Glen Cove.

4 Q What were you doing in Glen Cove?

5 A In Starbucks.

6 Q Did they at least pay?

7 A No.

8 Q They made you pay?

9 A I paid my coffee, I paid my own
10 coffee.

11 Q Did you find them to be a little
12 cheap?

13 MR. McNAMARA: Objection.

14 Q A little bit, un poco, a little
15 bit; si or no?

16 A Yes.

17 Q Mr. Esclanate Vargas, I am letting
18 you know that you can have all the coffee you
19 want in my office free of charge. I will have
20 to charge you for hot chocolate, though. I'm
21 just kidding. You can have hot chocolate or
22 coffee all you want. Okay?

23 A The other thing is something that
24 happened to me is that I like to always pay my
25 own way. I like to drink my coffee, I like to

1 C. Escalante Vargas

2 drink what I have. I like to do that. Louie
3 knows that. I like to pay for my own stuff my
4 own way.

5 Q But Louie has instructed me to be
6 nice to you, so he told me that if you want
7 coffee, I am to drop everything and get you
8 coffee. He told me to make sure that I had
9 fresh cookies here for you.

10 MR. VECCHIA: That's because he
11 doesn't want anybody else to eat them.

12 Q And at the end of this deposition
13 if there are cookies left over, my client told
14 me that I am too fat to take them home, and that
15 I am to send them home with you for your
16 cousin's children. Okay?

17 A Okay.

18 Q Did you review any documents when
19 you met with Ian and Lauren two weeks ago?

20 A No.

21 Q Did they tell you what to say at
22 this deposition?

23 MR. McNAMARA: Objection.

24 A No.

25 Q Was anybody else present when you

1 C. Escalante Vargas

2 met with them?

3 MR. McNAMARA: Objection.

4 A Only my friend.

5 Q What is your friend's name?

6 A Renato.

7 Q I am just going to ask you when
8 you swing your chair a little bit, be careful
9 because you are going to hit madam interpreter.

10 THE INTERPRETER: I am sitting
11 this way.

12 Q Okay? She is very important for
13 us today. We don't want anything to happen to
14 her.

15 A Okay.

16 Q Even she is very important not
17 even here today, she is a very important person.
18 We are not allowed to hurt her. Okay?

19 A Yes.

20 Q So you met with Ian and Lauren
21 with your friend, correct?

22 A Yes.

23 Q And for how long did you meet with
24 them?

25 MR. McNAMARA: Objection.

1 C. Escalante Vargas

2 A Two hours.

3 Q What did you discuss during those
4 two hours?

5 A That he was going on a trip or I
6 don't know, he was coming from a trip; that I
7 had an appointment for the 29th of this month.

8 Q Continue.

9 A He told me the same thing, to tell
10 the truth and only the truth, and that it was a
11 simple case where I had to answer just what you
12 asked me, simply.

13 Q That is all that was discussed?

14 MR. McNAMARA: Objection.

15 A Yes.

16 Q For two hours?

17 A Yeah. He also had to talk to
18 Renato, more to Renato than with me.

19 Q Did they make sure that your story
20 and Renato's story was the same story?

21 MR. McNAMARA: Objection.

22 A No.

23 Q 

24 

25 MR. McNAMARA: Objection.

1 C. Escalante Vargas

2 A [REDACTED]

3 Q When did you first meet with Louis
4 Vecchia?

5 A 2001, March.

6 Q How did you meet Louis Vecchia in
7 March of 2001?

8 A I went to ask for work.

9 Q How did you know to ask
10 Mr. Vecchia for work?

11 A Through Nelson Quintanilla.

12 Q So you knew Nelson Quintanilla and
13 Nelson said that you should ask Louie for work?

14 A Yes.

15 Q So when did you start working for
16 Louie?

17 A In March of 2001.

18 Q And do you know the name of the
19 company that you started working for in March of
20 2001?

21 A Suffolk Paving.

22 Q Did you work for Suffolk Paving
23 from March of 2001 through the end of the year?

24 A Until the end of the year,
25 December 31st of 2002.

1 C. Escalante Vargas

2 Q What type of work did you do from
3 March 2001 to December 31st, 2002?

4 A I was a raker.

5 Q You were a raker in the paving
6 business?

7 A Yes.

8 Q You need to answer verbally. You
9 can't make a grunt.

10 You speak English?

11 A (In English.) No, a little bit,
12 little, little bit.

13 Q That's fine. We have an
14 interpreter. It's important that everything I
15 ask you, you wait for the interpreter to
16 interpret and then provide me an answer. Okay?
17 This way, we are absolutely sure that you
18 understand everything that I'm saying.

19 A Okay.

20 Q Now, you can't rake asphalt in the
21 winter, can you?

22 A No.

23 Q When it's too cold, you can't lay
24 asphalt, correct?

25 A No.

1 C. Escalante Vargas

2 Q So you didn't work in the cold
3 months, correct?

4 A No.

5 Q So you would stop working in
6 November and then start again in April, right?

7 MR. McNAMARA: Objection.

8 A We would stop in December.

9 Q And then, you would start again in
10 April, correct?

11 A March, April.

12 Q At the end of every year in that
13 October, November period of time, you would slow
14 down the work, correct?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q Now, you worked until December of
18 2002, as you just testified, where did you work
19 in 2003?

20 A I worked for Ralph Lunati and JCB
21 Contracting.

22 Q Also in 2003?

23 A Yes. And also Pave-Co.

24 Q Also in 2003?

25 A 2003.

1 C. Escalante Vargas

2 Q You worked for three different
3 companies in 2003?

4 A Yes. Ralph Lunati, I worked for
5 two months. For JCB, I worked three months and
6 four months, for Pave-Co, I worked from
7 September to March of 2004.

8 Q Why did you leave Suffolk Paving
9 from March of 2003 to March of 2004?

10 A Because I asked Louie for a raise
11 and he didn't give it to me, so I left.

12 Q Did you get that raise at Ralph
13 Lunati?

14 A Yes.

15 Q But only for two months?

16 A Yes, because I was going to work
17 with JCB, but that wasn't ready yet.

18 Q Then, JCB didn't work out all that
19 long, then, you went to Pave-Co, correct?

20 A Oh, no, they only changed the
21 names. That's all.

22 Q But then, there came a point in
23 time when you went back to Suffolk Paving,
24 correct?

25 A Yes.

1 C. Escalante Vargas

2 Q When was that?

3 A March of 2004.

4 Q Why did you go back in March of
5 2004?

6 A Because I went to ask Louie for
7 work again, and he told me, yes, there was work.

8 Q So you went back to the man that
9 you quit your job from, correct?

10 A Yes.

11 Q He was good and fair to you and
12 gave you work, correct?

13 A Yes, because he gave me a raise.

14 Q In 2005, where did you work?

15 A I worked for Stone Gate here in
16 Medford.

17 Q Stone what?

18 A Stone Gate. It's the same as
19 Pioneer?

20 MR. VECCHIA: You left me again
21 after I gave you a raise?

22 Q No more cookies for you.

23 So you left Suffolk Paving in 2004
24 and went to go work for somebody else in 2005?

25 A I left Suffolk Paving December

1 C. Escalante Vargas

2 15th, 2004. Because they paid me regular time,
3 which was prevailing wage, and I spoke to
4 Dominick Testa about it and he didn't fix it.
5 And then I left and went to Pave-Co again.

6 Q In 2005?

7 A The 16th of 2004, December 16th of
8 2004.

9 Q Okay.

10 A And I worked for Pave-Co until
11 March of 2005, then I went to Stone Gate.

12 MR. VECCHIA: Who is Stone Gate?

13 THE WITNESS: It's the same as
14 Pioneer with another name.

15 Q What do you got there, some
16 goodies? We will take a look at them later.
17 You can put them on the table.

18 A Okay.

19 Q You worked for Stone Gate or
20 Pioneer up until when?

21 A Until 2006, March of 2006.

22 Q In March of 2006, where did you
23 start working?

24 A On the 23rd of March, I returned
25 to work with Suffolk Paving.

1 C. Escalante Vargas

2 MR. VECCHIA: You're like a
3 bouncing ball.

4 Q Why did you go back to Suffolk
5 Paving in March of 2006?

6 A Because Stone Gate left me at my
7 house. They told me that I had to stay home,
8 that I wouldn't be working. Everybody else was
9 going to work, so I got annoyed and I said, no
10 more.

11 Q So they fired you?

12 A No, I left.

13 Q They told you that they have no
14 more work for you.

15 A Yes, I had work, but I didn't have
16 to work that day.

17 Q So you threw a temper tantrum and
18 quit?

19 MR. McNAMARA: Objection.

20 A Yes, because there were two
21 workers that only had two days of working and I
22 had more than a year of work behind me, and they
23 were leaving me home.

24 Q Maybe they didn't like you.

25 A Simply the only, the boss of the

1 C. Escalante Vargas

2 owner wasn't there and they acted that way.

3 Q Okay. So March 23rd of 2006, you
4 returned to Suffolk Paving.

5 How did you return to Suffolk
6 Paving?

7 A The same way. I spoke with Renato
8 and Renato said he was going to talk to Louie to
9 see if he would give me the job back.

10 Q Did you ever speak to Louie to get
11 your job back?

12 A When Renato spoke to me, then I
13 went to see Louie and I spoke with Louie, and he
14 said, yes, I did get my job back.

15 Q Did you apologize for quitting
16 twice, at least twice?

17 A No.

18 Q But he was still nice enough to
19 hire you back?

20 A Yes, because I have always been a
21 responsible person, and I respond well with my
22 work.

23 Q He's always been a fair boss,
24 right?

25 A Yes. It was somebody that he

1 C. Escalante Vargas

2 always -- somebody that he always gave me work.

3 Q Now, you worked at Suffolk Paving
4 from March of 2006 until when?

5 A Till July 11th of 2007.

6 Q What happened on July 11th of
7 2007?

8 A July 12th of 2007, I worked for
9 Suffolk Asphalt Corporation.

10 Q You worked at Suffolk Asphalt from
11 July 12th of 2007 until when?

12 A Until December 9th of 2009.

13 Q And what happened on December 9th
14 of 2009?

15 A There was still a week left of
16 work, but I got sick, then with Edwin Rivera, I
17 sent the message that I couldn't work.

18 Q So on December 9th of 2009, you
19 got sick and told Suffolk Asphalt that you could
20 no longer work; is that correct?

21 A That I couldn't work for that
22 week, because after that week, there was no more
23 work anyway.

24 Q So you stopped working December
25 9th, 2009, voluntarily, correct?

1 C. Escalante Vargas

2 A Yes.

3 Q Where did you work in 2010?

4 A For Pioneer Asphalt.

5 Q The same people that you got angry
6 at and quit before?

7 A That's it. They called me.

8 Q What did they call you?

9 A To offer me the job.

10 Q But this is the same place that
11 you got upset about and quit?

12 MR. McNAMARA: Objection.

13 A Yes.

14 Q Is it fair to say that you like to
15 jump from job to job?

16 A If they give me the work and I
17 need the job, I guess, yes.

18 Q Now, when did you start working
19 for Pioneer in 2010?

20 A April.

21 Q And that is when you would have
22 started to work for Suffolk Paving if you went
23 back to work for them, correct?

24 A Yes, I see. In March, I went to
25 see Louie, and I asked him if there was work and

1 C. Escalante Vargas

2 I was waiting for him. And when he didn't call
3 me, I got called back from the other job, and I
4 have a family that I have to maintain, so, of
5 course, I had to take the other job.

6 Q When did you go see Louie in 2010?

7 A In March, around the time of the
8 25th, around there.

9 Q Where did you see Louie?

10 A In the office.

11 Q Did you drive to the office?

12 A Yes.

13 Q Did you actually speak to Louie?

14 A Yes.

15 Q What did you say to Louie, and
16 what did he say to you?

17 A He said that they were starting to
18 work and that he was going to call me. He asked
19 me for the number. I said, okay, that's fine,
20 I'll wait. But since he didn't call me, I went
21 to work where they did call me.

22 Q Well, did you leave your cell
23 phone number with Louie Vecchia?

24 A Yes.

25 Q What cell phone number did you

1 C. Escalante Vargas

2 leave?

3 A [REDACTED].

4 Q For how long have you had that
5 cell phone number?

6 A For about ten years.

7 Q And did Louis Vecchia or anybody
8 else on behalf of Suffolk Asphalt call you at
9 that number?

10 A No.

11 Q Do you always get your messages?

12 A Yes.

13 Q And Pioneer Asphalt called you
14 before Suffolk Asphalt called you; is that
15 correct?

16 MR. McNAMARA: Objection.

17 A I went -- he didn't call me.
18 Louie didn't call me and Pioneer called me to
19 offer me the job. And they told me that
20 tomorrow, being the next day, that I could start
21 working, so I went the next day to start
22 working.

23 I was working with Pioneer for
24 about half a year when I saw Louie at the
25 restaurant, the restaurant Hooters, and he asked

1 C. Escalante Vargas

2 me why I hadn't come, and I said that I was
3 waiting for him to call, and he said that he
4 lost the number, but the company doors are
5 always open whenever you want to come back.

6 Q He said that to you?

7 A Yes.

8 Q Did you believe him when he said
9 that?

10 A Well, as long as I have my job,
11 that is what he told me. He tells me that he
12 offered the job and I don't have a job, then I
13 will return with him. I came here to work.

14 Q Do you have any reason to doubt
15 Mr. Vecchia's honesty?

16 A Not only because -- only in the
17 sense that not only one time did I tell it to
18 him that the hours weren't being paid and that
19 we had a problem with that, that other people
20 were also complaining about that.

21 Q Were there ever any times that you
22 worked for Suffolk Asphalt where you just didn't
23 show up to work?

24 A No.

25 Q What about the day that the

1 C. Escalante Vargas

2 complaint was served?

3 A Yes. We put the claim in. I
4 don't know who started this, but when the
5 complaint was put in -- I mean, it was said
6 this, everybody was complaining about it, it
7 wasn't just that the hours weren't being paid.

8 Q But the day that the complaint was
9 filed or served, didn't you fail to show up to
10 work?

11 A No, I didn't go to work. That is
12 when I was sick.

13 Q So in December, that is when you
14 were sick, when you stopped working for Suffolk
15 Asphalt?

16 A Uh-huh, yes.

17 Q You weren't fired from Suffolk
18 Asphalt?

19 A No.

20 Q You weren't retaliated against at
21 all for filing a complaint; is that correct?

22 A No.

23 Q Now, when you worked for Suffolk
24 Paving, did you receive a check for every week
25 you worked?

1 C. Escalante Vargas

2 A Yes.

3 Q And did you ever receive cash when
4 you worked for Suffolk Paving?

5 A Sometimes.

6 Q Now, on the weeks that you
7 received cash --

8 MR. VECCHIA: Sometimes?

9 Q Did you receive cash frequently
10 from Suffolk Paving?

11 A Sometimes, when we worked a
12 Saturday.

13 MR. VECCHIA: That's it?

14 A And sometimes he would pay us some
15 hours of overtime.

16 Q When you worked on private jobs,
17 you received some cash, right?

18 A Sometimes.

19 Q Now, when you received cash, you
20 received the cash, in addition to your
21 paychecks, correct?

22 A Yes.

23 Q So on the times that you got
24 checks, you got paid both in check and cash?

25 A Yes.

1 C. Escalante Vargas

2 Q Do you remember how much cash you
3 would receive?

4 A Sometimes it was \$200 for the day.

5 Q Sometimes it was more than that,
6 right?

7 A Yes, sometimes.

8 Q Now, whenever you got a paycheck,
9 that paycheck came with a stub; is that correct?

10 A Yes.

11 Q And that stub indicated the hours
12 you were getting paid for; is that correct?

13 A Yes.

14 Q And that stub always indicated all
15 your hours, correct?

16 A The forty hours that were worked
17 and every once in awhile when they paid the
18 overtime.

19 Q So those stubs always indicated
20 the hours that you worked, and if you worked
21 overtime, it would indicate the overtime that
22 you were paid, correct; yes or no?

23 MR. McNAMARA: Objection.

24 Q You can answer.

25 A He always would markdown the

1 C. Escalante Vargas

2 hours, the forty hours, and one hour or another
3 hour that he paid overtime, and then when he
4 gave the cash, it came there too in an envelope
5 separate.

6 Q No, listen to what I am saying.

7 Every paycheck that you received
8 from Suffolk Paving had a pay stub attached to
9 it, correct?

10 A Yes.

11 Q And that stub indicated the hours
12 that you worked for that week, correct?

13 A Yes, the forty hours.

14 Q And if you got paid overtime, that
15 would be reflected on that stub, as well?

16 MR. McNAMARA: Objection.

17 Q Correct, yes or no?

18 A When they were paid, yes.

19 Q Okay. And sometimes you worked
20 overtime and were paid cash for that overtime,
21 correct; yes or no?

22 A Sometimes, yes.

23 Q What does "sometimes" mean; once a
24 week, twice a week?

25 A No. It would mean sometimes like

1 C. Escalante Vargas

2 once a week out of a month.

3 Q So you only received cash once a
4 week?

5 MR. McNAMARA: Objection.

6 Q Yes or no?

7 A We would receive it when we worked
8 on a Saturday.

9 Q Okay. Did you work many
10 Saturdays?

11 A Many times.

12 Q And when you worked Saturdays, you
13 got paid cash, correct?

14 A When it was for a private job,
15 yes.

16 Q What if it was for a municipal
17 job?

18 A It would be paid in check.

19 Q Now, when you worked on municipal
20 jobs, how much were you paid an hour?

21 A When we worked for Suffolk Paving,
22 it was prevailing wage.

23 Q When you worked for Suffolk
24 Asphalt, what was it?

25 A It was through the union, through

1 C. Escalante Vargas

2 the payment of the union.

3 Q Now, do you know if there's a
4 difference between the union wage and the
5 prevailing wage?

6 A Yes, there's a difference.

7 Q What is that difference?

8 A In the union, it's thirty-four,
9 thirty-six, depending on what gets added on,
10 37.49. Prevailing wage is like fifty-four,
11 around there.

12 Q So you are saying that you got
13 paid less once you started doing union work than
14 when you were working at Suffolk Paving?

15 A Not that they paid me less, but
16 those are the union rules.

17 Q So when you worked for Suffolk
18 Asphalt, you were paid in accordance with the
19 union contract, correct?

20 MR. McNAMARA: Objection.

21 Q Yes or no?

22 A Yes, depending on the rules of the
23 union, what the payment per hour would be, yes.

24 Q So you got what the union mandated
25 you should get; is that correct?

1 C. Escalante Vargas

2 A Correct.

3 Q So Suffolk Asphalt paid you
4 correctly?

5 A In the work hours of the forty
6 hours, yes.

7 Q You worked forty hours every week,
8 correct?

9 A No.

10 Q You worked a minimum of forty
11 hours every week, correct?

12 MR. McNAMARA: Objection.

13 A Minimum of forty. I worked from
14 fifty to sixty hours.

15 Q You never worked less than forty
16 hours, though, correct?

17 A Only when it rained, then we
18 didn't work.

19 Q Also, at the beginning of the
20 season and the end of the season, correct?

21 A Yes, when it rained, at the
22 beginning of the season, at the end of the
23 season. When it rained, we couldn't work.

24 Q When did you become a member of
25 the union?

1 C. Escalante Vargas

2 A July 12th of 2007.

3 Q Who paid your union initiation
4 fees?

5 A Louie gave us to join the union.

6 Q How much did he give you?

7 A \$700-something. I don't remember
8 very well.

9 Q He paid that for you?

10 A Yes.

11 Q Did you ever thank him for it?

12 A No, only once. He always joked
13 with us and I was working on the streets, but I
14 didn't have the union. In a certain way, he had
15 put me in charge like to keep an eye on the
16 other people.

17 Q I just asked you if you thanked
18 him for the \$700 initiation fee; yes or no?

19 A That time, yes, the day after,
20 yes.

21 Q Did you buy him a cup of coffee?

22 A No.

23 Q Maybe a fruit basket?

24 A No.

25 Q An egg sandwich?

1 C. Escalante Vargas

2 A No.

3 Q Why not?

4 A Sometimes it was --

5 Q It was what?

6 A Sometimes he would ask us if we
7 wanted something.

8 Q But I thought you said that you
9 paid your own way all the time.

10 A Yes, well, of course, I always. I
11 always worked. When people offered me
12 something, I would say no.

13 Q If somebody was going to give you
14 something for free, you were going to take it,
15 right?

16 A Depending on the person.

17 Q You were happy that Louie put you
18 in the union, correct?

19 A Yes. The first time I said no, I
20 didn't want to be in the union.

21 Q Why?

22 A I didn't want to be in the union.

23 Q Why?

24 A I don't know. I didn't want to be
25 there.

1 C. Escalante Vargas

2 Q Now, do you know if the prevailing
3 wage rates are set by the union rates?

4 A I don't know that. I don't know
5 that.

6 Q Do you know if there is any
7 difference between the prevailing wage and the
8 union rates?

9 A Yes, there's a difference.

10 Q What is the difference?

11 A The difference is that prevailing
12 wage pays more.

13 Q Does it pay more, or do you get
14 more in your paycheck?

15 A When it's prevailing wage, it pays
16 more.

17 Q Do you know if it costs the
18 employer any more to pay prevailing wage or to
19 pay union wages?

20 A In certain ways, if he pays, he
21 has to pay me and the union, where prevailing
22 wage is only one payment.

23 Q Right. So he has to make the
24 supplemental benefit payments to the union on
25 your behalf instead of paying them directly to

1 C. Escalante Vargas

2 you.

3 MR. McNAMARA: Objection.

4 Q Correct?

5 A Yes.

6 Q You don't like that, because you
7 would rather get that money in your pocket,
8 correct?

9 MR. McNAMARA: Objection.

10 Q Yes or no?

11 A Depends on the job.

12 Q When I ask you a question that
13 ends with a yes or no, you have to answer the
14 question yes or no.

15 MR. McNAMARA: Objection.

16 Q Just with a yes or no. Okay?

17 A Yes. But when it's something --

18 Q I don't want the but something. I
19 just want the yes or no. You have an attorney
20 here who can help you explain things in the
21 appropriate place.

22 Do you understand that?

23 A Yes.

24 Q It's his job to explain. It's
25 your job just to answer my questions.

1 C. Escalante Vargas

2 A Okay.

3 Q So when you worked for Suffolk
4 Paving, how much did they pay you an hour?

5 A For Suffolk Paving, it was
6 different rates.

7 Q Okay. What were the different
8 rates and the years in which you earned them?

9 A He paid me when I first started,
10 \$165 a day. Then, \$175.

11 Q Continue.

12 A Then, \$200, then \$240. Then,
13 after is when I went into Suffolk Asphalt
14 Corporation where the pay was \$34.88.

15 Q \$34.88 an hour?

16 A Yes.

17 Q That is what you were paid for
18 each hour of work, correct?

19 A Yes.

20 Q When you worked at Suffolk Paving,
21 did you ever do any prevailing wage work?

22 A Yes.

23 Q When you did prevailing wage work,
24 you were paid prevailing wage rates, correct?

25 A Yes. That is why I left in 2004

1 C. Escalante Vargas

2 when they didn't pay me prevailing wage.

3 Q Well, they didn't pay you
4 prevailing wage when you weren't working on
5 prevailing wage jobs, correct?

6 A In December, it was prevailing
7 wage rates job, and I made a claim to Dominick
8 Testa and they didn't pay it to me. And that's
9 when I left, knowing that I was going to be
10 losing my unemployment, because I knew if I
11 left, I would be losing my unemployment.

12 Q What was the job that you worked
13 on that you believe was prevailing wage?

14 A In a certain way, I don't
15 remember.

16 Q Do you remember at all?

17 A I don't remember where it was, but
18 I remember that it was prevailing wage job and
19 that's why I made a claim to Dominick. That's
20 why I left. It was the 15th of December, the
21 season is going to end. If I leave, then I know
22 that I can't get my unemployment, because I am
23 the one who is going to be leaving then.

24 Q So did you quit December 15th?

25 A Yes, of December of 2004.

1 C. Escalante Vargas

2 Q You quit?

3 A Yes.

4 Q Because you believe you worked
5 prevailing wage hours and weren't paid
6 prevailing wage, correct?

7 A Yes.

8 Q How many hours -- hey, hey --

9 A Everybody else got prevailing
10 wage.

11 Q Just answer the questions that I
12 ask you, nothing else.

13 Do you understand?

14 A Okay, yes.

15 Q Are we clear?

16 A Yes.

17 Q How many hours do you believe you
18 worked prevailing wage work and didn't get paid
19 in 2004?

20 A Those hours, it was eight hours.

21 Q So there were eight hours. What
22 day did you work these hours?

23 A I don't remember. It was 2004.
24 That's a long time ago.

25 Q But you do remember it was eight

1 C. Escalante Vargas

2 hours?

3 A Yes, because everybody else got
4 paid for them and not me.

5 Q But you have no idea what job or
6 what day?

7 MR. McNAMARA: Objection.

8 A I don't remember. It's 2004. We
9 are talking about a lot of years.

10 Q Is there anything that can help
11 you remember; yes or no?

12 A No.

13 Q So in 2004, you believe you worked
14 eight hours somewhere at some time that you
15 shouldn't gotten paid prevailing wage rates for?

16 MR. McNAMARA: Objection.

17 Q Is that correct?

18 A Yes.

19 Q And if I wanted to look into it to
20 help you to determine whether or not you should
21 have gotten paid prevailing wage rates, you
22 can't point me in the right direction to even
23 start to look into this, can you?

24 MR. McNAMARA: Objection.

25 Q Yes or no? Yes or no?

1 C. Escalante Vargas

2 A Yes.

3 Q Okay. You are not giving me much
4 to help you with here. Do you know that; yes or
5 no, yes or no?

6 A Yes.

7 MR. ZABELL: We are going to go
8 off the record now.

9 (Whereupon, a discussion was held
10 off the record.)

11 (At this time a break was taken
12 from 11:17 a.m. until 11:32 a.m.)

13 MR. ZABELL: Back on the record.

14 Q In 2004, you quit Suffolk Paving
15 because you thought that you were owed eight
16 hours of prevailing wage pay, correct?

17 A Yes.

18 Q But you don't remember the job
19 that you worked on?

20 A No.

21 Q Or the day that you worked on it,
22 correct?

23 A Yes -- no.

24 Q Yes or no? Yes or no, just one or
25 the other?

1 C. Escalante Vargas

2 A I don't remember.

3 Q You have no idea now what job it
4 was or what day it was?

5 A No.

6 Q But then, you went back to work
7 for Suffolk Paving in 2006, correct?

8 A Yes.

9 Q They paid you correctly in 2006,
10 correct?

11 A Yes, my normal hours.

12 Q So up to 2006, you're only
13 claiming that you were underpaid for eight hours
14 of pay, correct?

15 MR. McNAMARA: Objection.

16 A No, because they were still owing
17 me overtime hours.

18 Q For what days?

19 A Well, it was almost every week.

20 Q How many hours?

21 A It was almost every week.

22 Q Just give me the number.

23 A Eight hours, ten hours, twelve
24 hours, eight hours, ten hours.

25 Q You don't know for sure, do you?

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 A Different weeks, so it's
4 different.

5 Q So you don't know exactly how many
6 hours you're claiming today, correct?

7 MR. McNAMARA: Objection.

8 Q Yes or no? You can swing your
9 chair all you want. We know that you get
10 nervous. Just yes or no? You don't know. Yes
11 or no?

12 MR. McNAMARA: Objection.

13 A I know the hours.

14 Q Yes or no?

15 A No.

16 Q That's fine. Just be honest with
17 us.

18 Did you ever borrow money from
19 Louis Vecchia; yes or no?

20 MR. McNAMARA: Objection.

21 A One time in --

22 Q Yes or no?

23 A Yes, he let me borrow. In 2001,
24 2002, I don't remember. He let me borrow some
25 money and I paid him back.

1 C. Escalante Vargas

2 Q Do you owe Louis Vecchia money
3 now?

4 A No.

5 Q Are you sure?

6 MR. McNAMARA: Objection.

7 A Sure.

8 Q So if you actually do owe Louis
9 Vecchia money now, you would be lying, correct?

10 MR. McNAMARA: Objection.

11 A Exactly. I know that Louie gave
12 me some money in a check, but I didn't ask him
13 for it.

14 Q So he gave you more money than you
15 were entitled to; yes or no?

16 A No, that money Renato asked him
17 for, not I.

18 Q Did you ever borrow \$2,000 from
19 Louis Vecchia?

20 A Yes, from Renato, not mine.

21 Q Did you ever borrow \$2,000 from
22 Suffolk Asphalt Corp.?

23 A No.

24 Q Do you know that there's a
25 judgment from the Suffolk County District Court,

1 C. Escalante Vargas

2 Fifth District Court saying that you owe Suffolk
3 Asphalt Corp. \$2,000; yes or no, yes or no?

4 A That money, I didn't borrow.

5 Q Yes or no?

6 A I didn't borrow. Renato did.

7 Q So Renato borrowed the money, you
8 didn't get the money?

9 A Yes. Renato talked to him and he
10 gave it to me.

11 Q So you got \$2,000 from Suffolk
12 Asphalt Corp. What did you do with that money?

13 A It's Renato's, not mine.

14 Q Did you get the money?

15 A But it's not mine. It's not mine.

16 Q I am going to show you an order of
17 the Court. We are going to identify it as
18 Defendants' Exhibit 2 with today's date.

19 (A one-page document was marked as
20 Defendants' Exhibit 2 for identification,
21 as of this date.)

22 Q Take a look at that document.

23 (Hanging.)

24 A (Reviewing document.)

25 Q This is an order of the Court,

1 C. Escalante Vargas

2 which indicates that you owe over \$2,000 to
3 Suffolk Asphalt Corp.

4 Are you aware of that; yes or no?

5 A Why do I owe them? Why do I owe
6 them?

7 Q Because the Court says you owe it
8 to them.

9 A I am not the one that took it,
10 Renato.

11 Q But you never fought it, did you?
12 You never fought this?

13 A Why is it?

14 Q Because you were lazy. That's
15 why.

16 MR. McNAMARA: Objection.

17 A Lazy, why?

18 Q I don't know why you were lazy.

19 A But it's money that I didn't take.

20 Q It's between you and your maker.

21 A I did not take that money.

22 Q Where are you currently working --
23 hey, hey --

24 A Renato --

25 Q Answer the questions and only the

1 C. Escalante Vargas

2 questions.

3 MR. McNAMARA: Objection.

4 Q Are you capable of doing that
5 today; yes or no?

6 A Let me explain.

7 Q No. I have no interest in your
8 explanations. All I want are answers to the
9 questions I ask. If you want to explain
10 something, then, you explain it to Patrick
11 during a break. That's what you pay him for.

12 Do you understand that?

13 A Okay, yes.

14 Q You received \$2,000 from Suffolk
15 Asphalt, correct?

16 A Yes.

17 Q Did you ever pay Suffolk Asphalt
18 that \$2,000 back; yes or no?

19 A No.

20 Q Okay. Where are you currently
21 working?

22 A Pioneer Asphalt.

23 Q So if I needed to garnish your
24 wages, I should send this judgment to Pioneer;
25 is that correct?

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 A Why? I am not the one that owes
4 it to him.

5 Q The Court says something very
6 different.

7 A Then I will take it out from
8 Renato.

9 Q That's fine. So Renato owes Louis
10 Vecchia the money?

11 A Correct. He knows that.

12 Q The Court says that you owe it.
13 If you think that Renato owes it, that is
14 between you and Renato. And I understand why
15 you might be angry with him.

16 A So then why did -- if the money
17 was asked by Renato, I didn't ask him for it.

18 Q But the money was taken by you,
19 given to you, and not repaid by you?

20 MR. McNAMARA: Objection.

21 Q You can laugh. I understand. I
22 understand your frustration. Renato may have
23 put you into this position, but that is between
24 you and Renato.

25 A Yes, but --

1 C. Escalante Vargas

2 Q Just because you owe him money
3 doesn't make you a bad person. I understand
4 that. Louie says when you came to work, you
5 were a very hard worker and an honorable person.
6 I just want you to be honorable here today.

7 A Okay.

8 Q You knew about this judgment,
9 correct?

10 A From the Court?

11 Q Yes.

12 A That, no. Somebody spoke to me
13 about the \$2,000, but the conversation was cut
14 off. They spoke in English and I didn't
15 understand and that was it.

16 Q Did the lawyers tell you that you
17 were being sued?

18 A No. What I knew was that Edwin
19 told me that Louie was going to sue me and I
20 told him that it shouldn't be me, because the
21 money was for Renato.

22 Q Did Lauren Goldberg or Ian
23 Wallace, your lawyers, ever provide you with a
24 copy of the lawsuit that was filed against you?

25 MR. McNAMARA: Objection.

1 C. Escalante Vargas

2 A That I have a piece of paper, no.

3 Q Do you remember them ever talking
4 to you about it? Because it sounds like it
5 might be malpractice on their part.

6 MR. McNAMARA: Objection.

7 A But that doesn't have any interest
8 to me. Because if I have to pay it, Renato has
9 to pay me for it.

10 Q I am letting you know now that you
11 do have to pay this. If you don't pay it
12 voluntarily, then we are going to have to seize
13 your bank account or contact your current
14 employer --

15 MR. McNAMARA: Objection.

16 Q -- to freeze your wages.

17 MR. McNAMARA: Objection.

18 Q Do you want to resolve this before
19 we have to do that? Because we don't want to
20 hurt you that way.

21 MR. McNAMARA: Objection.

22 A I don't like to be irresponsible.
23 If I have to pay that money, I will pay it
24 simply, but Renato has to pay me, because he is
25 really the one that owes it. It's not me.

1 C. Escalante Vargas

2 Q That's fine. You do have to pay
3 that money. Patrick will tell you.

4 MR. McNAMARA: Objection.

5 A Okay.

6 Q So do you want to make
7 arrangements to pay it now?

8 MR. McNAMARA: Objection.

9 A No. Because I have to speak to
10 Renato.

11 Q Renato didn't tell you about this
12 at all?

13 A He only said that he had spoken
14 here about that money, because I said to him
15 that he was responsible for that money.

16 Q That you borrowed on his behalf?

17 A No, I didn't take it, borrow. He
18 had let him borrow it, and I was just the middle
19 person.

20 Q Did you ever borrow any other
21 money, other than this money?

22 A Only what I told you before, in
23 2002, that he let me borrow, and I paid it
24 through him through my paychecks.

25 Q How much did you borrow from him

1 C. Escalante Vargas

2 in 2002?

3 A I don't remember well, if it was
4 \$1,000 or \$2,000. But every week, I would come
5 and pay him cash.

6 Q And that was -- you paid him what
7 you owed him, and that was it, right?

8 A Yes, that's it.

9 Q And he was fair with you on that?

10 A At the moment, when I asked him,
11 let me borrow it. I said, okay, this is the way
12 that I am going to pay him and I paid him the
13 way that I was going to pay him, because I don't
14 like to keep things that are not mine.

15 Q What did you use that money for?

16 A I needed it to send to my country.

17 Q Why?

18 A To make payments over there.

19 Q Make payments on what?

20 A Expenses, house expenses and
21 stuff.

22 Q And he was nice enough to lend you
23 that money?

24 A Yes, he let me borrow it. He
25 didn't have any objection.

1 C. Escalante Vargas

2 Q Did he charge you interest?

3 A No.

4 Q So he was very nice and decent to
5 you?

6 A Yes.

7 Q He was always good to you,
8 correct?

9 A Yes.

10 Q Always fair and honest and decent,
11 correct?

12 A Yes.

13 Q Did he ever lie to you?

14 A Not I know, because the truth is I
15 don't understand English.

16 MR. VECCHIA: Oh, gee, thanks.

17 Q So if he did lie to you, you don't
18 know?

19 A Yeah, exactly.

20 Q Did he ever try to steal from you?

21 A To steal like this, like to take
22 out my money or things like that, I don't think.

23 Q So the answer to my question is,
24 no, he never tried to steal from you?

25 A If it's talking about things like

1 C. Escalante Vargas

2 that, no. But the only place that he failed,
3 it's in the hours of working that he didn't pay.

4 Q Now, other than the eight hours of
5 prevailing wage that you believe you are
6 entitled to, you don't believe you're entitled
7 to any additional prevailing wage hours, do you?

8 A No.

9 Q So as you are sitting here today,
10 you only believe that Suffolk Asphalt or Suffolk
11 Paving only owes you the difference between
12 eight hours of regular pay and eight hours of
13 prevailing wage pay, correct?

14 A Suffolk Paving is one thing and
15 Suffolk Asphalt is another.

16 Q Okay. So Suffolk Paving only owes
17 you the difference between eight hours of
18 regular pay and eight hours of prevailing wage
19 pay?

20 A In between eight to ten hours
21 difference. It's different for Suffolk Asphalt
22 Corporation.

23 Q I didn't get there yet. Slow
24 down.

25 So that is all you are claiming

1 C. Escalante Vargas

2 for Suffolk Paving, correct?

3 A Yes. Because we worked fifty
4 hours and after fifty hours, we would charge
5 overtime.

6 Q Now, do you know who owns or owned
7 Suffolk Paving when you worked for them?

8 A Louie.

9 Q Was he the only owner?

10 A That I knew.

11 Q Do you have any reason to believe
12 there were any other owners?

13 A I don't know if his wife, Helene.

14 Q So you have no specific knowledge
15 of the owners?

16 A Okay. Because we don't have the
17 way to get passed the office to find out who the
18 owners are, so we just know who is in the front.

19 Q So you have no reason to believe
20 that anybody owns Suffolk Paving, other than
21 Louis Vecchia, correct?

22 A Yes, correct. I don't know.

23 Q Do you know who owns Suffolk
24 Asphalt?

25 A I know that Lou Vecchia is the

1 C. Escalante Vargas

2 owner, but I know that Chris represents the
3 company. He is the new president.

4 Q Do you have any reason to believe
5 that there are any other owners, other than --
6 if there are any owners, other than Lou Vecchia
7 or Chris Vecchia of Suffolk Asphalt?

8 A No.

9 Q So we were just talking about the
10 ownership of Suffolk Asphalt. I believe you
11 testified that you have no reason to believe
12 there are any other owners, other than Louis
13 Vecchia and Christopher Vecchia of Suffolk
14 Asphalt; is that correct?

15 A Yes.

16 Q I believe you testified earlier
17 that with every paycheck that you got from
18 Suffolk Asphalt, there was a pay stub, correct?

19 A Yes.

20 Q Those pay stubs indicated the
21 hours that you worked on them, correct?

22 A Of the ones, yes.

23 Q That was the same for Suffolk
24 Paving, correct; yes or no?

25 A Yes.

1 C. Escalante Vargas

2 Q That was for every week that you
3 worked; yes or no?

4 A Yes, but --

5 Q So your answer is yes?

6 A Yes, but every week, you didn't
7 work the same hours.

8 Q Right. And your checks indicated
9 different hours for each week, correct?

10 A Yes.

11 Q Because some weeks you would work
12 more hours and some weeks you would work less
13 hours, correct?

14 A Yes.

15 Q Okay. Now, when you joined the
16 union, you understood that your hourly rate was
17 going to be dictated by the contract between the
18 union and Suffolk Asphalt, correct?

19 A Yes.

20 Q Do you know what that contract
21 says?

22 A We received a contract later. In
23 2009, we received a contract. The contract is
24 the little book that we get that we had to go
25 get.

1 C. Escalante Vargas

2 Q So you got your contract?

3 A Yes.

4 Q Yes or no, yes or no?

5 A Yes, the book that we went to pick
6 up. The contract with Louie --

7 Q Stop already. Just answer the
8 questions. Do you understand?

9 A Yes.

10 Q Are you capable of just answering
11 the questions now, or do you want to take a
12 break?

13 A No, no break. I'm fine.

14 Q Are you sure?

15 A Yes.

16 Q Because you seem like you just
17 want to talk and talk.

18 A Yes. Because if I have to defend
19 myself or I have to answer what you are asking
20 me.

21 Q It's not your job to defend
22 yourself. You have a lawyer here.

23 A Yes.

24 Q He is here to protect you.

25 A Yes, but you are asking me. I

1 C. Escalante Vargas

2 have to answer.

3 Q You just have to answer the
4 questions that I ask you. Do you understand
5 that?

6 A Yes.

7 Q Can you just answer the questions
8 I ask you? Are you capable of doing that?

9 A Yes. That's what I'm doing.

10 Q Now, did you ever have a Suffolk
11 Asphalt vehicle?

12 A Yes.

13 Q When did you first get a vehicle
14 from Suffolk Asphalt?

15 A I don't remember when.

16 Q Was it when you first joined the
17 union?

18 A I don't know. Because the vehicle
19 went to -- the vehicle first went to Renato,
20 then it went to Walter, then Wayne, and then
21 Edwin and me.

22 Q You have no idea when you got that
23 vehicle?

24 A No.

25 Q Who paid for the gas of that

1 C. Escalante Vargas

2 vehicle?

3 A We would fill that up at the yard.

4 Q Did you ever use that vehicle for
5 your personal travels?

6 A No.

7 Q Did you drive to and from work in
8 that vehicle?

9 A I would travel to go get Renato,
10 then to the yard, then to the house.

11 Q Were you Renato's chauffeur?

12 A Yes.

13 Q Why?

14 A Because he didn't have a license.
15 He didn't want to be driving.

16 Q So you were helping him out by
17 driving him to work, right?

18 A Yes.

19 Q That was nice of you.

20 A Because I had to get up early.

21 Q You had to get up early for
22 Renato?

23 A 4:00, 3:30, 4:30.

24 Q Did Renato ever pay you to drive
25 him to work?

1 C. Escalante Vargas

2 A No.

3 Q Do you think he should have?

4 A Truth, it's a favor that you do.

5 No.

6 Q What time would you pick Renato
7 up?

8 A Between 4:30 and 5:30, depending
9 on the time we had to start to work, but when we
10 had to be at the yard at 5:00 in the morning, I
11 would pick him up at 4:30.

12 Q Where would you pick him up from,
13 from a bar?

14 A The house. No.

15 Q Tell the truth.

16 Did you ever pick Renato up from a
17 bar?

18 MR. McNAMARA: Objection.

19 A No.

20 Q Never?

21 A No.

22 Q Always from his house?

23 A Yes.

24 Q Where was his house located?

25 A He lived in Huntington, first.

1 C. Escalante Vargas

2 Then he lived in Brentwood Road in Bay Shore.

3 Then I would pick him up around West Wood Drive.

4 Q In what town?

5 A What is it called? It was always
6 in Huntington or close by.

7 Q Was he always ready to go when you
8 showed up at his house?

9 A No.

10 Q Sometimes you had to wait for him?

11 A Yes.

12 Q What was the longest time that you
13 had to wait for him?

14 A Forty-five minutes, an hour.

15 Q That is not that nice of him,
16 right?

17 A Yeah, yes.

18 Q It's rude, right?

19 A Yeah, that's how it is.

20 Q He wasn't that nice to you, was
21 he?

22 A No.

23 Q He took advantage of you, correct?

24 A Yes.

25 Q Do you think that he ever took

1 C. Escalante Vargas

2 advantage of Louie?

3 A The truth is I don't know.

4 Q What do you think?

5 A The truth is that he didn't do his
6 job. I don't know what they would talk. That
7 was only between them when they spoke. They
8 weren't going to tell me.

9 Q Now, there was a period of time
10 where Renato left the country for awhile; is
11 that correct?

12 A Yes.

13 Q How many months did he leave for?

14 A He left, as far as I can remember,
15 in January, I think. I know he left -- I don't
16 know what month he came back, but I think he
17 came back around the middle of the year.

18 Q Like July?

19 A I think around there -- no, I
20 don't remember very well when he returned.

21 Q He left to go visit his mistress
22 in Columbia, correct?

23 MR. McNAMARA: Objection.

24 A Yes.

25 Q Now, when he went to see his

1 C. Escalante Vargas

2 mistress in Columbia, you still had the vehicle,
3 correct?

4 A Yes. He always -- after a time,
5 then they told me that I had to leave it at the
6 yard.

7 Q And sometimes you would take that
8 vehicle directly to the job sites in the
9 morning, correct?

10 A We would leave early to go to
11 work, first, us, so we can mark lines, or
12 sometimes I would go to the yard first,
13 depending on where my job was. I would go to
14 fill up the diesel so that I could if fill up
15 the machines and then I would swing by and pick
16 up Renato afterwards.

17 Q So sometimes you would go directly
18 to the yard and sometimes you would go directly
19 to the job sites, correct?

20 A That's how it is, yes.

21 Q It's just like all the other
22 coworkers, correct?

23 MR. McNAMARA: Objection.

24 A The or workers went to the yard.

25 Q None of them ever went to the job

1 C. Escalante Vargas

2 sites directly?

3 A No.

4 Q If they said that they did, they
5 would be lying, correct?

6 MR. McNAMARA: Objection.

7 Q Correct; yes or no?

8 MR. McNAMARA: Objection.

9 Q Yes or no?

10 A When the job is near, they would
11 go there if it's near.

12 Q Why are you unable to answer my
13 questions yes or no when I ask you them?

14 A Because I can't answer you in a
15 yes, because sometimes they go to the job and
16 the job was just in Brentwood or Bay Shore, but
17 it was just once in awhile. I can't say yes by
18 itself.

19 MR. ZABELL: Excuse me.

20 (Whereupon, a brief recess was
21 taken at this time.)

22 Q Listen to me. I don't want to
23 have to keep saying this to you. I don't care
24 how smart you think you are. Your job here is
25 just to answer my questions. If you are

1 C. Escalante Vargas

2 incapable of doing that, I am going to send you
3 home and bring you back another time after the
4 Court has had an opportunity to advise you just
5 to answer my questions.

6 Do you understand that; yes or no?

7 MR. McNAMARA: Objection.

8 Q Yes, you have to answer it.

9 THE WITNESS: Can I answer?

10 Q Yes.

11 MR. McNAMARA: All he is telling
12 you to do is --

13 MR. ZABELL: Stop.

14 Q Just answer the question yes or
15 no.

16 A Yes.

17 Q Don't get angry or frustrated.

18 It's not a big deal. Just answer the questions.

19 Do you understand?

20 A I'm not angry.

21 Q You clearly are.

22 A Sometimes I ask if I can ask
23 him --

24 Q If he doesn't want you to answer,
25 he will take his right hand and put it on your

1 C. Escalante Vargas

2 shoulder --

3 MR. McNAMARA: No, left hand.

4 Q Okay?

5 MR. McNAMARA: Most likely my
6 left.

7 Q Are you ready to proceed?

8 A Yes.

9 Q Are you just going to answer the
10 questions that I ask you?

11 A Yes.

12 Q Okay. So some employees would go
13 directly to the job sites in the mornings,
14 correct?

15 MR. McNAMARA: Objection.

16 Q Yes or no?

17 A That's what I don't understand.

18 Q Answer the question. Yes or no?

19 A Yes.

20 Q Thank you. You see? That is all
21 I want.

22 A Why is it?

23 Q Because it's truthful and honest.
24 That's why.

25 A But if I have to answer yes as in

1 C. Escalante Vargas

2 general and it's not always in general.

3 Q Answer the questions I ask you.

4 You have an attorney to help you. Do you
5 understand?

6 A Yes, okay.

7 Q That's it. I just want you to be
8 honest.

9 A Exactly. That is what I am trying
10 to do.

11 Q When you worked more than forty
12 hours, what would your paycheck indicate?

13 A For forty hours and sometimes some
14 overtime hours; two, three. That weren't the
15 hours that we worked.

16 Q Did your paycheck ever indicate
17 more than two or three hours of overtime?

18 A When we worked on the Waverly and
19 Sunrise Highway, they paid me nine hours of
20 overtime.

21 Q And that's it?

22 A Yes.

23 Q And you only got paid overtime
24 when you actually worked overtime, correct; yes
25 or no?

1 C. Escalante Vargas

2 A No.

3 Q So there were times when you got
4 paid overtime hours when you didn't work
5 overtime; yes or no? Yes or no?

6 A They didn't pay me.

7 Q You did receive overtime hours,
8 correct; yes or no? Yes or no?

9 MR. McNAMARA: Objection.

10 Q Yes or no? Yes or no?

11 MR. McNAMARA: Objection.

12 A Sometimes they would pay me two or
13 three hours, but they didn't pay me the entire
14 overtime.

15 Q Listen to me. Your paychecks
16 would indicate that you received overtime; yes
17 or no?

18 A Yes.

19 Q Okay. When you received overtime,
20 you actually worked the overtime, correct; yes
21 or no?

22 A I worked it, yes, I worked it.

23 Q There was never a time when you
24 did not work overtime where you received
25 overtime pay, correct; yes or no?

1 C. Escalante Vargas

2 A No.

3 Q Okay. You are entitled to
4 overtime after forty hours in a week, correct?

5 A Yes.

6 Q And you only want overtime for
7 hours worked over forty in a week, correct?

8 A Yes.

9 Q So in weeks in which you worked
10 less than forty hours, you are not entitled to
11 overtime, correct; yes or no?

12 A In the companies --

13 Q How about yes or no?

14 A In the companies, regarding --
15 according to the union, if you fulfill eight
16 hours regular in a day and you do three or four
17 hours of overtime, they have to be paid, even if
18 you haven't fulfilled the forty hours of regular
19 time.

20 Q So is that what you are suing for,
21 overtime for less than forty hours worked in a
22 week?

23 MR. McNAMARA: Objection.

24 A No. For all the time, because we
25 worked forty, fifty, sixty hours. They had to

1 C. Escalante Vargas

2 pay me for the overtime and they didn't pay it.

3 Q Do you believe that you are
4 entitled to overtime for hours worked over forty
5 in a week?

6 MR. McNAMARA: Objection.

7 A Yes.

8 Q That is the only reason why you
9 are suing here today, correct?

10 A Yes.

11 Q And nothing else? Just yes or no.

12 A It's my hours. They have to pay
13 me my hours.

14 Q So you are only suing for hours
15 worked over forty in a week, correct?

16 MR. McNAMARA: Objection.

17 A For all my hours.

18 Q Yes or no?

19 MR. McNAMARA: Objection.

20 A I am charging the hours that I
21 worked.

22 Q You need to answer my question yes
23 or no. When you don't answer my question yes or
24 no, you indicate to everybody here that you're
25 lying. So just answer my questions.

1 C. Escalante Vargas

2 You are only suing today for hours
3 worked over forty in a week, correct?

4 A Yes. The hours --

5 Q Thank you. Then, your answer is
6 yes, correct? Your answer is yes, correct, yes,
7 si?

8 A Yes.

9 Q Thank you. Was that so difficult;
10 yes or no? Yes or no, yes or no?

11 A He says to me -- and they explain
12 the hours that they owe me. After the forty,
13 that they put it in regular hours.

14 Q Why are you having such difficulty
15 answering my questions?

16 A Because you said to me if those
17 are the hours that I have to charge and I have
18 to say that I have to charge all the hours that
19 I worked. The union says that they have to pay
20 the hours after eight hours on regular days, the
21 hours overtime are hours overtime even if you
22 don't reach the forty hours a week. After the
23 forty hours, they also have to pay the overtime.

24 Q But you are only suing for the
25 hours worked over forty hours in a week; is that

1 C. Escalante Vargas

2 correct; yes or no?

3 MR. McNAMARA: Objection.

4 A For all the hours.

5 Q Yes or no?

6 MR. McNAMARA: Objection.

7 Q Why are you refusing to answer my
8 questions? Don't you know that only makes you
9 look like a liar?

10 MR. McNAMARA: Objection.

11 A Yes. Liar, why?

12 Q Because you're lying?

13 MR. McNAMARA: Objection.

14 A Why am I lying?

15 Q You already testified today that
16 you are only suing for hours worked over forty
17 in a week, correct?

18 A Fifty or sixty hours that we
19 worked, and the hours that they would put on
20 regular days because they were supposed to be
21 overtime hours.

22 Q So from 2003 to today, what weeks
23 did you work more than forty hours?

24 A A whole bunch of weeks.

25 Q Identify them for me.

1 C. Escalante Vargas

2 A How can I identify them?

3 Q You have to. You're suing. You
4 need to specify the specific dates.

5 Are you not capable of doing that?

6 A From 2003?

7 Q 2003.

8 A Then -- how am I going to remember
9 from then to now?

10 Q How are you going to sue from then
11 to now?

12 A Simply because they didn't pay
13 them.

14 Q So that's just based upon you
15 think you worked more hours and therefore, you
16 want money, right?

17 MR. McNAMARA: Objection.

18 A It's money. Pay me my hours.
19 That's all.

20 Q How many hours total?

21 A In total, it's a bunch of hours.

22 Q How many is a "bunch"?

23 A I don't know how many it is.

24 Q Do you have a specific number that
25 you think you are entitled to?

1 C. Escalante Vargas

2 A It's ten to fifteen hours a week
3 that we worked overtime. They would pay us
4 three, four hours.

5 Q But didn't you say sometimes you
6 got paid nine hours?

7 A When I worked at Waverly.

8 Q Did you ever complain to the union
9 that you weren't getting paid what you were
10 supposed to?

11 A No.

12 Q You know that you can complain to
13 your union, correct?

14 A Yes. But if I put it, I also take
15 the risk that they might fire me from the job.

16 Q The union from fire you from the
17 job?

18 A No, not the union. Louie.

19 Q Did Louie ever fire you?

20 A No.

21 Q You keep talking, but nobody asked
22 you a question.

23 A The same way like if I had put
24 that complaint in...

25 Q Did you ever see Louie fire

1 C. Escalante Vargas

2 anybody; yes or no?

3 A Yes.

4 Q Who did you see him fire?

5 A Walter.

6 Q Anybody else?

7 A The ones he fired, he fired Edwin.

8 Q Who else? Who else?

9 A Renato.

10 Q Who else?

11 A Those are the ones that -- those
12 with the ones that he fired.

13 Q How did he fire Walter?

14 A He told him that there was no more
15 work for him.

16 Q Were you there?

17 A Right in front there, no.

18 Q Did you hear Louie say that to
19 Walter?

20 A No, I didn't hear it, but he did
21 fire him.

22 Q How do you know?

23 A Because there -- because they
24 fired Renato and Edwin also. I wasn't there.
25 When he fired Renato -- when he fired Walter, I

1 C. Escalante Vargas

2 wasn't there, but he fired him telling him
3 because that is what we knew from all the other
4 coworkers.

5 Q So you never saw Louie fire Edwin,
6 Walter or Renato, correct?

7 A That I was there?

8 Q Yes.

9 A No, that I was there, no.

10 Q So you never saw it?

11 A Of what? That he fired them?

12 Q Yes.

13 A No, I wasn't there, yes.

14 Q So you don't know if he fired
15 them, only because they said that they no longer
16 worked there, correct?

17 A No, because they said that Louie
18 fired them because there was no more work, the
19 same way with Renato. I took Renato home. I
20 took him to his house and then he never called
21 him back.

22 Q You said that you saw Louie fire
23 him.

24 MR. McNAMARA: Objection.

25 Q Were you lying then, or are you

1 C. Escalante Vargas

2 lying now?

3 A That I saw it, that I heard? He
4 knows that I don't understand English. So I
5 don't know what he said to him or not. But,
6 yes, that he fired them. Because Renato, since
7 I would drive him home, he said it to me
8 himself. Renato came twice to the yard. They
9 told him that there was no work, no work.

10 After, Tommy told him that there
11 was no more work for him.

12 Q That is what Renato told you,
13 correct; yes or no?

14 A Yes.

15 Q Stop all the blah, blah, stop the
16 talking. Just answer the question. Otherwise,
17 we will be here for a very, very long time.
18 Okay? Just so you know, when you start shaking
19 your leg like that, you are telling us all that
20 you are lying.

21 MR. McNAMARA: Objection.

22 A Why?

23 Q Because you are lying.

24 A That is my way of being.

25 Q That is your way of lying. We

1 C. Escalante Vargas

2 know.

3 MR. McNAMARA: Objection.

4 Q Don't lie. Do you understand?

5 A Yes, I'm telling it like it is.

6 Q Do you want to apologize for lying
7 today?

8 A And why?

9 Q Because if you do something wrong
10 like that, you should apologize.

11 MR. McNAMARA: Objection.

12 A But I am saying the truth.

13 Q Except for when you are lying,
14 correct; si?

15 A If you ask me, I will answer you.

16 Q I just did. Do you want to take a
17 break to gain your composure, speak to your
18 attorney, maybe?

19 A No.

20 Q Do you understand the difference
21 between lying and telling the truth?

22 MR. McNAMARA: Objection.

23 A Of course, yes.

24 Q So you know how to tell the truth?

25 A Of course.

1 C. Escalante Vargas

2 Q And you know how to answer my
3 questions, correct?

4 A Yes.

5 Q You know how to answer my
6 questions without giving a whole speech?

7 A That's how it is.

8 Q You know how to do it, correct?

9 A Yes.

10 Q The woman next to you is the
11 interpreter, correct?

12 A Yes.

13 Q She is accurately interpreting
14 everything that I'm saying today, correct?

15 A Yes.

16 Q You have no issues understanding
17 her, do you?

18 A No.

19 Q Now, why was Renato when he was
20 fired?

21 A Renato was at the house when he
22 called and Tommy told him that there was no more
23 work.

24 Q Where was Edwin when Edwin was
25 fired?

1 C. Escalante Vargas

2 A He went to the yard. They told
3 him that they were going to call him and that
4 was a lie.

5 Q Were you in his house with him?

6 A Yes.

7 Q What were you doing with Edwin in
8 his house?

9 A We're friends.

10 Q Were the two of you alone?

11 A We were there, yes, in his house.

12 Q What were the two of you doing
13 alone in his house?

14 A Talking. What else would we be
15 doing?

16 Q I don't know. That is why I was
17 asking the question.

18 What day were you there alone when
19 Edwin got fired?

20 A That day, I don't remember, but
21 there, we were.

22 Q Where was Walter when Walter got
23 fired?

24 A Where was Walter? No, they told
25 Walter that they didn't have any more work.

1 C. Escalante Vargas

2 That's what they told him.

3 Q Do you have a bank account?

4 A Yes.

5 Q Where do you do your banking?

6 A Bank of America.

7 Q What branch?

8 A Any branch.

9 Q What branch do you usually use?

10 A The one there, Wheeler Road.

11 Q Wheeler Road in what town?

12 A In Brentwood.

13 Q How many bank accounts do you have
14 at that location?

15 MR. McNAMARA: Objection.

16 A What is that for?

17 Q So I can execute this judgment.

18 MR. McNAMARA: Objection.

19 A From the Court?

20 Q Yes.

21 A If they tell me that I have to pay
22 that, I will either bring the money or take the
23 money.

24 Q I don't care. You still have to
25 tell me this information.

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 A Why? It's my account.

4 Q I know, but you have to tell me
5 that after this break.

6 (Whereupon, a brief recess was
7 taken at this time.)

8 Q So how many bank accounts do you
9 have at Bank of America on Wheeler Road?

10 A Only one account, a checking and
11 savings.

12 Q So you have two accounts, not one?

13 A Yes.

14 Q So you lied when you said that you
15 had one account?

16 MR. McNAMARA: Objection.

17 A It's the account in a bank.

18 Q So you have one checking account
19 and one savings?

20 A Yes.

21 Q What is your account number?

22 A That is what I say again, why?

23 Q So I can execute on this judgment.

24 A If you tell me to bring you the
25 money, I will bring you the money.

1 C. Escalante Vargas

2 Q That's fine, but I don't
3 necessarily believe you. Because I'm a lawyer
4 and I'm not paid to believe anybody.

5 A Okay. Send me a piece of paper
6 that says that I have to pay and I will pay it
7 there.

8 Q I just showed you a piece of paper
9 and your attorney has it. If you give me this
10 information now, I will wait five days before I
11 attach this money from your bank account.

12 MR. McNAMARA: Objection.

13 Q In those five days, you can feel
14 free to bring the money to me to pay off this
15 amount. But as we are here right now, you have
16 to provide this banking information.

17 MR. McNAMARA: Objection.

18 Q Your lawyer will tell you that you
19 have to provide an answer.

20 A Okay.

21 Q If there is something that I can
22 photocopy to make it easier, I will.

23 MR. McNAMARA: I would like to
24 have questions regarding the witness's
25 bank accounts and answers arising

1 C. Escalante Vargas

2 therefrom to be marked confidential
3 pursuant to the confidentiality
4 agreement.

5 MR. ZABELL: I have no objection
6 to that.

7 A (Hanging.)

8 Q Do you have anything else in there
9 that indicates your bank account information?

10 A No. I just have the number of the
11 account. That is my card.

12 Q What is that?

13 A This is where I have my account
14 number.

15 Q Why don't you give it to me and I
16 will make a photocopy?

17 MR. McNAMARA: Let me see it.
18 Counsel, you can ask him his account
19 number.

20 THE WITNESS: I have other things
21 there. I can't give you everything.

22 Q What is it?

23 MR. McNAMARA: You can ask him
24 questions. You can ask his account
25 number.

1 Confidential

2 Q Okay, give me your account number.

3 MR. McNAMARA: Objection.

4 Q Go ahead.

5 A [REDACTED]

6 Q May I see that just to confirm?

7 MR. McNAMARA: No.

8 MR. ZABELL: Counselor, I will ask
9 you to take a look to confirm.

10 MR. McNAMARA: Read it back to me.

11 MR. ZABELL: Read it back to me
12 and I will tell you.

13 MR. McNAMARA: [REDACTED].

14 Q That is your checking account
15 number?

16 MR. McNAMARA: And savings, too.

17 MR. ZABELL: I want the savings
18 number.

19 MR. McNAMARA: [REDACTED].

20 Q That is your savings?

21 A No. That's the checking.

22 Q So the first one you gave me was
23 your savings?

24 A Yes, the savings.

25 Q How much money do you have in your

1 C. Escalante Vargas

2 savings account?

3 MR. McNAMARA: Objection.

4 A Right now, I don't have anything.

5 Q How much money do you have in your
6 checking account?

7 MR. McNAMARA: Objection.

8 A Neither. Just a couple, \$50.

9 Q That's not much.

10 Do you have cash at home?

11 MR. McNAMARA: Objection.

12 A No.

13 Q Do you have cash?

14 MR. McNAMARA: Objection.

15 A No.

16 Q Do you owe a mortgage on your
17 house?

18 MR. McNAMARA: Objection.

19 A On Willow, no.

20 Q So you own it outright?

21 A Yes.

22 Q Did you take a loan out to buy
23 your house?

24 A Yes.

25 Q Where is that loan through?

1 C. Escalante Vargas

2 A Me.

3 Q What bank did you take the loan
4 from?

5 A GNC.

6 Q How much do you owe on that house?

7 A The house was bought at 376,
8 around there.

9 Q How much do you owe now?

10 A I don't know, I just pay my
11 mortgage.

12 Q How much do you pay a month?

13 MR. McNAMARA: Objection.

14 Q How much? You have to answer.

15 A \$3,400, around there -- two
16 thousand seven hundred-something, around there.

17 Q You pay that every month?

18 A Yes, but I don't pay it with my
19 card.

20 Q What do you pay it with?

21 A With the card of Joel Hernandez.

22 Q So you use somebody else's bank
23 account?

24 MR. McNAMARA: Objection.

25 A He makes the payment with his

1 C. Escalante Vargas

2 credit card.

3 Q Why?

4 A Because it's easier. He makes my
5 payments and everything.

6 Q Why does he make payments for you?

7 A I don't waste time or anything.
8 He does it and it's easier for me.

9 Q Does he hold your money?

10 A I give him the money, he puts it
11 in the account and he pays the mortgage.

12 Q What is your mortgage account
13 number?

14 MR. McNAMARA: Objection.

15 A I don't have it.

16 MR. ZABELL: I am going to ask you
17 that you provide it to your attorney at
18 the conclusion of this deposition, who
19 will then turn it over to me.

20 MR. McNAMARA: Objection.

21 Q That will enable me to help place
22 a lien on your house for the money that you owe
23 my client.

24 MR. McNAMARA: Objection.

25 A I can give it to him at the time

1 C. Escalante Vargas

2 afterwards. I'll check at home.

3 Q Okay. But I did promise you that
4 I will wait five days --

5 MR. McNAMARA: Objection.

6 Q -- before executing on any of this
7 information to allow you to bring to my office
8 the money that you owe Mr. Vecchia and Suffolk
9 Paving. Do you understand that?

10 A Yes.

11 Q Is that fair?

12 A Yes.

13 MR. ZABELL: I am going to take a
14 short break while I make a photocopy of
15 this.

16 (At this time a break was taken
17 from 12:41 p.m. until 12:58 p.m.)

18 (A one-page document was marked as
19 Defendants' Exhibit 3 for identification,
20 as of this date.)

21 Q I am going to show you a document
22 identified as Defendants' Exhibit 3 with today's
23 date.

24 Can you tell me what that document
25 is?

1 C. Escalante Vargas

2 A (Reviewing document.)

3 Q It's your bank card, right? Use
4 your words.

5 A Yes.

6 Q Remember, I agreed to give you
7 five days to come pay that money before I
8 attach --

9 MR. McNAMARA: Objection.

10 Q Okay?

11 A Okay.

12 Q You are familiar with the term
13 "GPS"?

14 A The ones in the cars?

15 Q Yes.

16 A It's something to be put there so
17 that people know where they are going.

18 Q Right. It also tells your
19 employer where his vehicle is if you are driving
20 it, correct?

21 A Yes.

22 Q If you were driving a Suffolk
23 Asphalt or Suffolk Paving vehicle and there was
24 GPS installed if it, they would know where you
25 are at all times, correct?

1 C. Escalante Vargas

2 A Yes.

3 Q So if you said that you were at a
4 location at 5:00 in the morning and you were
5 really at that location at 8:00 in the morning,
6 the GPS unit would tell us that, right?

7 MR. McNAMARA: Objection.

8 A Yes.

9 Q After you went to the shop in the
10 mornings on the occasions that you went to the
11 shop, would you ever stop off and get breakfast?

12 A We would stop to buy coffee.

13 Q Never egg sandwiches?

14 A Yes, we would buy it when going to
15 the job.

16 Q Right. Because Renato Guerra said
17 that he loved his egg sandwiches.

18 A Yes.

19 Q He loved his sandwiches, right?

20 A Yes.

21 Q He would get egg sandwiches with
22 mayonnaise, correct?

23 A Yes.

24 Q Which I personally find to be
25 disgusting, but he said that he liked it.

1 C. Escalante Vargas

2 A That's it.

3 Q How do you like your egg
4 sandwiches?

5 A I like Spanish food. When I have
6 to buy a sandwich, I like to buy a ham sandwich.

7 Q With mayonnaise?

8 A No.

9 Q With what type of condiment?

10 A Salt and pepper.

11 Q Cheese?

12 A Yes, American.

13 Q Go America.

14 On a roll or a hero?

15 A On a roll.

16 Q Mustard?

17 A No.

18 Q You just eat it dry with nothing?

19 A A little bit of ketchup.

20 Q Was the ham Kosher?

21 A I don't know.

22 Q Would you ever eat that ham
23 sandwich for breakfast or just for lunch?

24 A For breakfast. For lunch, I would
25 buy chicken cutlet.

1 C. Escalante Vargas

2 Q You guys love the chicken cutlets?

3 A Yes.

4 Q So in the morning, every morning,
5 Renato would have an egg sandwich, and you would
6 either have Spanish food or a ham sandwich,
7 correct?

8 A We would stop at the place, the
9 one place. If it was a bodega, we would buy the
10 bodega. And if it was a deli, we would buy the
11 sandwiches.

12 Q For lunch, you would always eat a
13 chicken cutlet?

14 A Not every time. Sometimes we
15 would buy Spanish food.

16 Q Now, the court reporter was
17 talking about Spanish food before, about a
18 burrito bar in Islip?

19 MR. ZABELL: Right?

20 THE COURT REPORTER: Correct.

21 Q Are you familiar with any burrito
22 bars in Islip?

23 A No.

24 Q So in the morning, you take about
25 a half an hour to eat the egg sandwiches or the

1 C. Escalante Vargas

2 Spanish food or the ham sandwich?

3 A No. It would only take about five
4 to ten minutes to buy it because then we would
5 go eating it in the truck.

6 Q So five to ten minutes every day,
7 correct?

8 A What?

9 Q Are you okay?

10 A Yes.

11 Q Do you know the question that I
12 asked?

13 A No.

14 MR. ZABELL: Can I ask that it be
15 read back, please?

16 (Whereupon, the requested
17 testimony was read back by the Court
18 Reporter.)

19 A Yes.

20 Q And that would be after your day
21 started, correct?

22 A Uh-huh.

23 Q You would eat lunch every day at
24 work, correct?

25 A Yes.

1 C. Escalante Vargas

2 Q At lunch, it would take you about
3 an hour to eat your lunch; is that correct?

4 A No. Sometimes it was just that we
5 would eat and we would go right back to work.

6 Q But you wouldn't bring your ham
7 sandwich for lunch, you would have to go buy
8 that, correct?

9 A We would send someone to buy it.

10 Q Who would you usually send to buy
11 it?

12 A The one who mostly would go would
13 be Edwin.

14 Q And Edwin would take about a half
15 an hour, forty-five minutes to get everybody's
16 meal, correct?

17 A No. Because sometimes the deli
18 was close.

19 Q So then it would take a half an
20 hour, correct?

21 MR. McNAMARA: Objection.

22 A Between fifteen and twenty
23 minutes, it would take him. It didn't matter
24 that he went to get the lunch, because we would
25 grab lunch at about 2:00, 2:30.

1 C. Escalante Vargas

2 Q And then, you would eat your lunch
3 once Edwin would get it, correct?

4 A Yes. When he got there, we would
5 stop, because the food was -- by the time was
6 already cold, the food was cold.

7 Q I don't care about that. You took
8 a break every day.

9 A Yes. But sometimes we would only
10 take five or ten minutes to eat and then we
11 would go back to work.

12 Q Sometimes?

13 A Yes.

14 Q And this happened every day?

15 A Yes.

16 Q Did you ever do any side work?

17 A No.

18 Q Never did a driveway for a friend?

19 A No.

20 Q Never made a little extra money at
21 night?

22 A No.

23 Q Did you ever use the Suffolk
24 Asphalt or Suffolk Paving vehicle for personal
25 use?

1 C. Escalante Vargas

2 A No.

3 Q You used it to do a favor and pick
4 up Renato, correct?

5 A Yes, but that was work.

6 Q It was a favor that you were doing
7 for Renato. It wasn't work?

8 A Yes. But the vehicle had been
9 given to Renato, not to me.

10 Q So Louie Vecchia didn't know that
11 you were driving the vehicle?

12 A No, Louie did know that I drove
13 the vehicle.

14 Q You don't expect to be paid for
15 the time that you took to pick up Renato, do
16 you?

17 A Of course, not.

18 Q You only want to get paid for the
19 time that you were actually working, correct?

20 A Correct.

21 Q The time that you showed up on the
22 job site and you were actually doing work?

23 A Correct.

24 Q You don't want to get paid for the
25 time that you were buying your egg sandwiches,

1 C. Escalante Vargas

2 right?

3 A No, no.

4 Q You are not suing for the time
5 that you took off to eat your meals, correct?

6 A No.

7 Q Okay. You are only suing for the
8 time that you spent working, correct?

9 A Correct, yes.

10 Q Did you ever keep a diary of your
11 actual work hours; yes or no?

12 A Sometimes I would write in a
13 notebook, but I don't have that.

14 Q You destroyed the notebook?

15 A No. It got lost.

16 Q Who lost it?

17 A Sometimes it was there in the
18 pick-up and it got lost.

19 Q So you lost it, correct?

20 A Yeah, it was in the pick-up. It
21 was there, it wasn't there.

22 Q So other than that notebook, did
23 you keep any track of the hours that you worked;
24 yes or no?

25 A Yes.

1 C. Escalante Vargas

2 Q Where did you keep track of it?

3 A In the order that I would fill it
4 and I would be the one to fill it.

5 Q Fill what?

6 A The hours that were given out for
7 the week, that we used to give them to Tommy. I
8 was the one that filled them out and Renato was
9 the one that handed them in.

10 Q Did you fill them out in English
11 or Spanish?

12 A Only in the English -- half a
13 little bit of what I could understand.

14 Q So you didn't understand exactly
15 what you were filling out?

16 A No, I understood the hours, yes.
17 The time that I came in, the time I left. And
18 the hours that I did and the hours that were
19 overtime and the hours were regular.

20 Q I think you testified before that
21 Louis Vecchia was always good to you, correct?

22 A Yes.

23 Q He was always fair and honest with
24 you?

25 A Yes, with me, at least. He was

1 C. Escalante Vargas

2 always --

3 Q He helped you provide for your
4 family?

5 A Through my job, yes.

6 Q He was good, fair, honest and
7 decent, correct?

8 A Yes.

9 Q Do you know that you are suing his
10 wife; yes or no?

11 A Yes, they told me.

12 Q Why are you suing his wife?

13 A In a certain way, it's because
14 Helene is the person who handles the papers in
15 the office. She was the one who did the pays.
16 She was the one who kept order of what the pay
17 stubs were, pay -- because Tommy would always
18 say it's Helene. We would ask a question of
19 Tommy and Tommy with a say it's Helene.

20 Q So are you suing Tommy too?

21 A Yes. Well, Tommy, if he is on the
22 list. I don't know, because if he is the boss,
23 I don't know what he has --

24 Q Well, are you suing Tommy?

25 A Yes.

1 C. Escalante Vargas

2 Q No, you're not.

3 A Well, if he is on the list --

4 Q Why did you just testify that you
5 are suing Tommy if you don't know if you are
6 suing Tommy? You are supposed to be smart
7 enough to say you don't know. Are you not that
8 smart?

9 A If he is not on the list --

10 Q The question that I just asked
11 you: Are you not that smart to understand the
12 questions that are being asked of you?

13 MR. McNAMARA: Objection.

14 A It depends on how you say it to
15 me. Because if you are asking me about Tommy,
16 if he is part of it and I don't know, because
17 Tommy appears on the papers and the lien and I
18 don't know. I don't know if he is included in
19 that list or not.

20 Q Do you know you are suing Louis
21 Vecchia's son?

22 A Yes.

23 Q Why are you suing his son?

24 A Because he is the president of
25 Suffolk Asphalt Corporation.

1 C. Escalante Vargas

2 Q Do you know his name?

3 A Christopher Vecchia.

4 Q You worked every day with
5 Christopher Vecchia, didn't you?

6 A Yes, I worked with him.

7 Q He worked alongside of you on the
8 jobs, correct?

9 A Yes. And Louie said for me to
10 teach him the work.

11 Q So every hour that you worked,
12 Christopher Vecchia worked, as well, correct?

13 A Yes, Chris Vecchia.

14 Q He was right there with you side
15 by side, sweating on every job, correct?

16 A Yes, he worked with us.

17 Q Was he a hard worker?

18 A Not so hard, because sometimes he
19 would fall asleep. When there wasn't, he would
20 fall asleep.

21 Q When there wasn't what?

22 A When the trucks weren't there.

23 Q So he would fall asleep when there
24 was no work to be done?

25 A Yes, sometimes, yes.

1 C. Escalante Vargas

2 Q When you were waiting for trucks
3 to come, you would take lunch breaks too, right?

4 A Sometimes, yes. Sometimes when it
5 was 12:00, it would give us the opportunity to
6 eat lunch. And sometimes when it was half, we
7 would just try to do other things while we
8 waited.

9 Q And do you play soccer?

10 A Yes.

11 Q You like soccer a lot, right?

12 A Yeah.

13 Q Did you ever play soccer on a job
14 site?

15 A Sometimes, yes.

16 Q For how long?

17 A For a moment while we were waiting
18 for material to arrive.

19 Q Who brought the soccer ball?

20 A Sometimes Nelson, sometimes
21 Renato.

22 Q Nelson or Renato Guerra?

23 A Yes. Renato would bring the
24 baseball.

25 Q Did you want to get paid for the

1 C. Escalante Vargas

2 time that you were playing soccer and baseball?

3 MR. VECCHIA: It was a Phys. Ed
4 class.

5 A No. Because it wasn't our fault
6 that we were there not working.

7 Q So no, you do not want to get paid
8 for that time?

9 MR. McNAMARA: Objection.

10 A No. It wasn't our fault, because
11 the material wasn't there. It wasn't our fault
12 that the material wasn't there.

13 Q How about instead of playing
14 soccer, how about you cleaned the trucks out
15 while you were waiting?

16 MR. McNAMARA: Objection.

17 Q Why didn't you do that?

18 A We would do it. We would clean
19 the truck. We would clean the heads and the
20 curbs. There was nothing else to do, well...

21 Q Then it was okay for you to take
22 your breaks and play soccer and baseball,
23 correct?

24 MR. McNAMARA: Objection.

25 Q Yes or no?

1 C. Escalante Vargas

2 A If there is nothing else doing,
3 what else can we do?

4 Q Isn't there always something to
5 do?

6 A From the work, there was nothing
7 else there. Everything was done.

8 Q Can you pave in the dark?

9 A Yes. Sometimes we paved in the
10 dark at night.

11 Q When?

12 A I don't remember what days, but,
13 yes, we did pave. Sometimes we worked until
14 9:00, 9:30 at night.

15 Q Where did you work until 9:30 at
16 night?

17 A I don't remember the name of the
18 street, but it was by Ronkonkoma lake. We
19 didn't have lights, but we just had the little
20 lights that the machine has.

21 Q When was this?

22 A That was in -- in this -- in 2008.
23 I'm not sure.

24 Q In 2008, you're not sure?

25 A I'm not sure, but I do remember --

1 C. Escalante Vargas

2 I'm not sure the name of the street, but I do
3 remember the place where it was.

4 Q But do you remember the year that
5 it happened in?

6 A No, I don't remember very well.
7 But I don't know if it was 2008 or another year,
8 2007.

9 Q Do you know if you got paid
10 overtime for that?

11 A They paid us a couple of hours,
12 but the other hours in the week that they worked
13 us, they didn't pay them complete.

14 Q Are you saying that there were
15 prevailing wage jobs that you didn't get paid
16 regular time for?

17 MR. McNAMARA: Objection.

18 A That wasn't Suffolk Paving. That
19 wasn't union. Prevailing wage was paid by -- if
20 it was working for the state, it was prevailing
21 wage. If it was private work, then it was
22 regular hours.

23 Q Sir, are you saying that there
24 were jobs that you worked on at Suffolk Asphalt
25 that you didn't get paid the union rate for?

1 C. Escalante Vargas

2 A Yes. They paid me but they didn't
3 pay me the overtime hours that they were
4 supposed to pay me.

5 Q So you got paid what you were
6 supposed to get paid for all regular time hours,
7 correct?

8 A Yes.

9 Q So you are only looking for
10 overtime hours for Suffolk Asphalt, correct?

11 A Yes.

12 Q And nothing else?

13 A And Suffolk Paving also. It's the
14 same company.

15 Q How do you know it's the same
16 company?

17 A Because it's the same place. From
18 Suffolk Paving, it went to Suffolk Asphalt,
19 working for the same company.

20 Q Did someone force you to go from
21 one to the other?

22 A No.

23 Q So nobody forced you to do
24 anything, you never complained to anybody while
25 you were there, correct?

1 C. Escalante Vargas

2 A Yes. I changed from Suffolk
3 Paving to Suffolk Asphalt because if I didn't
4 have the union, I wouldn't work.

5 Q That was a good thing for you,
6 right?

7 A Yes. Because the union is
8 something different in regard to -- that it's a
9 regular pay. Whether it's private or whether
10 it's from the State.

11 Q Suffolk Asphalt or Suffolk Paving
12 was so bad to you that you kept coming back to
13 it for a job, correct?

14 MR. McNAMARA: Objection.

15 Q Yes or no?

16 A No.

17 Q It wasn't that bad to you?

18 A No.

19 Q They were good to you, right?

20 A Yes.

21 Q Don't you feel bad that you are
22 suing Mr. Vecchia; yes or no?

23 A I feel bad in a certain way
24 because of the person. But it's simply for the
25 reasons -- for the hours that he didn't pay us.

1 C. Escalante Vargas

2 Q So you are just suing for the
3 money, right?

4 A Yes. Because the same way, if he
5 ever asked me to go work with him, I would go
6 work with him, it doesn't matter.

7 Q You would work with him tomorrow,
8 right?

9 A Not tomorrow, because I have
10 another job right now.

11 Q How much money do you want from
12 Mr. Vecchia?

13 A What's just.

14 Q How much is "just"?

15 A What is explained in the hours
16 that was supposed to be paid, I am not going to
17 ask him more or less.

18 Q How much? Nobody has been able to
19 say how many hours they're owed. How much?

20 MR. McNAMARA: Objection.

21 Q Tell me how many hours.

22 MR. McNAMARA: Objection.

23 A You have to add them all up to see
24 what the amount is. I am not going to charge
25 him for something that he already paid me for.

1 C. Escalante Vargas

2 Q How much do you want? Tell me how
3 much you want to make this all go away.

4 A I can't tell you.

5 Q You can't tell me?

6 A Yes. Because I don't have -- I
7 don't want more, I don't want less. I don't
8 want more and I don't want less.

9 Q Tell me how much money you want
10 today.

11 MR. McNAMARA: Objection.

12 A I can't tell you. Because he is
13 not going to pay more. That wouldn't be just
14 for him, either.

15 Q How many hours do you think you're
16 owed total?

17 A I don't know. I can't say.

18 Q You have no idea how many hours
19 you believe you're owed, correct?

20 A Correct, yes.

21 Q You have no idea how much money
22 you believe you're owed, correct?

23 A Correct, yes.

24 Q You wouldn't even know how to go
25 about figuring out how many hours you're owed,

1 C. Escalante Vargas

2 correct?

3 A That's true.

4 Q Now, did Renato ever go in to the
5 office complaining that he wasn't paid some of
6 his hours?

7 A Yes, various times.

8 Q Did he come out with cash after
9 that?

10 A That I saw him, no. But that he
11 would speak with Tommy, and Tommy would say
12 speak to Louie. I don't know after that.

13 Q Now, were you ever paid make up
14 hours?

15 A What do you mean?

16 Q Did you ever get shorted an hour
17 or two in your paycheck and then have it made up
18 in the next paycheck?

19 A Yes, sometimes.

20 Q So sometimes there were mistakes
21 and when there were mistakes, they were fixed,
22 correct?

23 MR. McNAMARA: Objection.

24 A Yes.

25 Q Okay. Did you ever sign a

1 C. Escalante Vargas

2 document saying you were paid all your
3 appropriate wages; yes or no?

4 A A couple of times, yes, they asked
5 us to sign a couple of papers, because if we
6 didn't sign them, we wouldn't get our check.

7 Q You are an honest, decent person?

8 A Yes.

9 Q You would never lie, correct?

10 A Correct.

11 Q You signed those documents because
12 they were truthful and accurate, correct?

13 MR. McNAMARA: Objection.

14 A That I read them, no, because they
15 were in English.

16 Q Did you ever ask somebody to
17 translate it to you?

18 A No, because it was in the office.
19 They wouldn't hand us our check unless we signed
20 them.

21 Q Who didn't get their check?

22 A Who, what?

23 Q Did anybody not get their check?

24 A No. Because if you signed the
25 paper, you would get your check.

1 C. Escalante Vargas

2 Q I want to go back to this.

3 Chris Vecchia worked alongside of
4 you, correct?

5 A Yes, yes.

6 Q From when to when?

7 A In the time that Renato wasn't
8 here.

9 Q And every hour that he worked was
10 an hour that you worked, correct?

11 A Yes.

12 Q So his hours should be the same as
13 your hours, correct?

14 A No, because suddenly, he would --
15 we would -- he would -- we would fill out paper
16 and not fill his paper.

17 Q Did you ever lie to anybody?

18 A I don't know that there is anybody
19 who hasn't lied for one reason or another.

20 Because sometimes I think to make a woman to
21 fall in love with you, you might need to. If
22 you are going to try to win over a woman, you
23 are not always going to tell her the truth.

24 Q So times you lie to get what you
25 want, right?

1 C. Escalante Vargas

2 A No. Because sometimes you can't
3 because a woman is not also going to believe
4 everything that you tell her.

5 Q So if you want to sleep with a
6 woman, sometimes you lie to her, correct?

7 MR. McNAMARA: Objection.

8 Q Yes, si?

9 A Yes.

10 Q So you will lie to get something
11 that you want, correct?

12 A No. Because if it's not something
13 that is just, I don't think there is any reason
14 to lie.

15 Q You just said sometimes you will
16 lie to a woman to get her to sleep with you,
17 correct; yes or no?

18 A Yes, but --

19 Q Yes. You only want to sleep with
20 her because you want to have sex, correct?

21 MR. McNAMARA: Objection.

22 A Well, yes, sometimes. That's what
23 happens with a man.

24 Q Then, sometimes you have no
25 interest in her after you have sex with her,

1 C. Escalante Vargas

2 correct?

3 MR. McNAMARA: Objection.

4 Q Right?

5 A Well, yeah, sometimes, of course.

6 Q So you will lie to her just to
7 sleep with her, yes?

8 A Yeah, well, that's a reason.

9 Q You will lie to her just to get
10 something that you want, right?

11 A Correct.

12 Q That is not very nice to the
13 woman, is it?

14 A It's the natural thing of a man.

15 Q That is the only time that you
16 will lie to someone, just to sleep with them,
17 right?

18 A Yes.

19 Q Sometimes you've lied, other than
20 to sleep with a woman, correct?

21 A Yes. But regarding this in your
22 youth, sometimes you don't have an understanding
23 of what the truth is of what it is to be a
24 responsible person or a person that is
25 irresponsible.

1 C. Escalante Vargas

2 Q Are you saying sometimes you would
3 lie to your mom so she wouldn't punish you?

4 A Well, yeah.

5 Q And sometimes you lie as an adult
6 to get things that you want, correct?

7 A No. Because as an adult, now as
8 an adult, I understand the responsibility that I
9 have.

10 Q Well, you have the responsibility
11 to tell women the truth, but you will lie to
12 them.

13 MR. McNAMARA: Objection.

14 A Yeah, but with a woman, it's
15 different because it's the nature of a man. But
16 now I don't do it anymore, because I have my
17 wife and I also have two daughters.

18 Q When was the last time you lied to
19 a woman, other than today, obviously?

20 A That, I don't know. Five years.

21 Q And how long have you been
22 married?

23 MR. VECCHIA: You're in trouble
24 now.

25 A No, I have -- from '93 to now.

1 C. Escalante Vargas

2 Q So you have lied to your wife?

3 A In that aspect, yes, because...

4 Q Does your wife know that you lie
5 to other women to sleep with them?

6 A No. She would throw me out.

7 Q Did you ever lie to a boss?

8 A A boss?

9 Q Yes.

10 A Here, no.

11 Q Anywhere.

12 A In my country, yes. I told my
13 boss that I wanted -- that I wanted to study,
14 and that it wasn't true. And when I wanted to
15 study, he didn't give me the opportunity because
16 I wanted to go to the university. Then I
17 couldn't, because he told me that the first time
18 that I had told him something that wasn't true
19 and that weighed on me, because I really did
20 want to finish my university studies.

21 Q So is the short answer to my
22 question, yes, you have lied to your boss; yes
23 or no?

24 A No, no. So if it was for that, I
25 don't think that it was. Simply because I told

1 C. Escalante Vargas

2 him that I wanted to study and then I changed my
3 mind.

4 Q When was the last time you went to
5 Honduras?

6 MR. McNAMARA: Objection.

7 A It's been about -- in September.

8 Q September of what year?

9 A This year.

10 Q And when were you in Honduras
11 before then?

12 A I was there in January, December,
13 January, and February.

14 Q Of what year?

15 A Of this year.

16 Q And did you go to Honduras in
17 2010?

18 A Yes.

19 Q From when?

20 A In December till March.

21 Q And in 2009, did you go to
22 Honduras?

23 A No.

24 Q In 2008, did you go to Honduras?

25 A No.

1 C. Escalante Vargas

2 Q In 2007, did you go to Honduras?

3 A Yes, I think so.

4 Q From when to when?

5 A I don't remember very well, but I
6 think it was 2007.

7 Q From when? What months?

8 A I don't remember very well what
9 month it was, but I did go to Honduras.

10 Q Was it the winter months?

11 A Umm, that, I'm not sure if it was
12 winter. I don't remember very clear.

13 Q We can find that out if we look at
14 your passport, correct?

15 A Yeah.

16 Q Do you have your passport with
17 you?

18 A No.

19 MR. ZABELL: I am going to ask
20 that you provide your passport to your
21 attorney. We are going to look at it
22 just to determine the dates that you left
23 the country.

24 MR. McNAMARA: Objection.

25 MR. ZABELL: What are you

1 C. Escalante Vargas

2 objecting to?

3 MR. McNAMARA: To the production
4 of his passport.

5 MR. ZABELL: He's here lawfully.

6 MR. McNAMARA: I agree.

7 MR. ZABELL: So you will provide
8 it, correct? Patrick? If he doesn't
9 remember in 2007, that is during the
10 period of time.

11 MR. McNAMARA: We will provide his
12 passport.

13 MR. ZABELL: Thank you.

14 MR. McNAMARA: A copy of his
15 passport.

16 Q In 2006, did you go to Honduras?

17 A No.

18 Q How about in 2005?

19 A No.

20 Q How about in 2004?

21 A No.

22 Q How about 2003?

23 A Between 2003 and 2004, yes. But I
24 don't remember if it was towards the end or the
25 beginning of 2004 that I went.

1 C. Escalante Vargas

2 Q Did you ever receive welfare
3 benefits?

4 A No.

5 Q Did you ever receive unemployment
6 benefits?

7 A Yes.

8 Q Do you receive it every year from
9 December to March?

10 A Yes.

11 Q Did you ever do any work between
12 December and March?

13 MR. McNAMARA: Objection. I would
14 like to have all questions and answers
15 regarding --

16 MR. ZABELL: Not a chance in hell,
17 Patrick.

18 MR. McNAMARA: I want to have it
19 marked confidential.

20 MR. ZABELL: Why?

21 MR. McNAMARA: Because it's
22 something that should be marked
23 confidential. You can object to it.

24 MR. ZABELL: Not a chance in hell,
25 Patrick.

1 C. Escalante Vargas

2 MR. McNAMARA: Well, I am still
3 making a designation.

4 MR. ZABELL: If you want to waste
5 your time, you can waste your time.

6 MR. McNAMARA: I would like to
7 have questions and answers arising
8 therefrom regarding the witness's
9 unemployment and unemployment benefits to
10 be marked confidential, pursuant to the
11 confidentiality agreement.

12 MR. ZABELL: I am going to object
13 to Patrick's attempts to seek a
14 designation of confidential for his
15 client's fraudulent acts. There is a
16 stipulation of confidentiality where
17 Patrick may attempt, in vain, to get the
18 Court to designate the portion of this
19 incriminating testimony as confidential.

20 Q Answer my question now.

21 MR. ZABELL: He said uh-uh. I'm
22 assuming that is a yes?

23 A I don't know what the question is.

24 Q Did you ever collected
25 unemployment between December and March?

1 C. Escalante Vargas

2 A Yes.

3 Q In fact, every year, you have
4 collected unemployment between December and
5 March, correct?

6 A Yes, not every year.

7 Q What year didn't you collect?

8 A The year that I left Louie's,
9 2005 -- no, 2004, when I left. I didn't
10 collect. I went to work for Pave-Co.

11 Q Did you collect unemployment
12 benefits between 2009 and 2010?

13 A Yes.

14 Q That is a period of time that you
15 went to Honduras, correct?

16 MR. McNAMARA: Objection.

17 A Yes.

18 Q So you collected unemployment
19 benefits during the period of time that you were
20 unavailable to work in the United States while
21 you were in Honduras, correct?

22 MR. McNAMARA: Objection.

23 A Yes, yes.

24 Q Then, the next year, you collected
25 unemployment benefits during the period of time

1 C. Escalante Vargas

2 that you were in Honduras again, correct?

3 MR. McNAMARA: Objection.

4 A Yes.

5 Q During the period of time when you
6 were in Honduras, you were not ready, willing,
7 and able to work in the United States; is that
8 correct?

9 MR. McNAMARA: Objection.

10 A Yes.

11 Q But yet, you certified that you
12 were in order to receive those unemployment
13 benefits. Are you aware of that?

14 MR. McNAMARA: Objection.

15 A Can you repeat the question?

16 Q You were aware that in order to
17 receive unemployment benefits, you had to
18 certify that you were ready, willing, and able
19 to work in the United States.

20 A Yes.

21 Q So you lied in order to receive
22 unemployment benefits?

23 MR. McNAMARA: Objection.

24 Q Correct?

25 A Yes, I lied, but I paid my

1 C. Escalante Vargas

2 penalty.

3 Q You lied. You lied in order to
4 get something that you want?

5 MR. McNAMARA: Objection.

6 A Yes.

7 Q Just like you would lie to a
8 mistress in order to sleep with her, correct?

9 MR. McNAMARA: Objection.

10 A It's not the same, because Louie
11 would say to me that I could collect and I
12 collected. Sometimes we worked and we worked in
13 the winter and he would pay us cash.

14 Q So sometimes you actually worked
15 while you were collecting unemployment benefits.
16 Is that what you are saying?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q That was okay because you were
20 lying to get money, right; yes or no?

21 A No, because I was losing money.

22 Q When you received unemployment
23 benefits, you would lie about working and work
24 somewhere for cash, correct?

25 A Yes, that's correct.

1 C. Escalante Vargas

2 Q Then, when you were receiving
3 unemployment benefits, you would lie while you
4 were on vacation in Honduras, correct?

5 MR. McNAMARA: Objection.

6 A Yes.

7 Q And if you wanted to sleep with a
8 woman, you would lie to her to sleep with her,
9 correct?

10 MR. McNAMARA: Objection.

11 A Yes, that's natural to a man to a
12 woman.

13 Q We have established here today
14 that you would lie for sex or money, correct?

15 MR. McNAMARA: Objection.

16 A For money, money.

17 Q Yes or no, yes or no?

18 A No, I haven't lied. Who hasn't
19 lied?

20 Q Is your answer that you would lie
21 for sex and you would lie for money?

22 MR. McNAMARA: Objection.

23 Q Yes or no?

24 MR. McNAMARA: Objection.

25 A Yes, for sex; yes, for money. I

1 C. Escalante Vargas

2 have collected because the boss has told me that
3 I had the opportunity to collect and the boss
4 has given me money when I have gone to work.

5 Q So your answer is yes, you would
6 lie for sex and yes, you would lie for money?

7 MR. McNAMARA: Objection.

8 Q Correct?

9 A For sex, yes.

10 Q And you would never lie for money?

11 A For money, what I did, I lied that
12 I did unemployment. But I paid my penalty for
13 that.

14 Q So you would lie for sex and lie
15 for money, correct?

16 MR. McNAMARA: Objection.

17 Q Yes? Just say it. We will move
18 on.

19 A Not for money.

20 Q You just testified that you would
21 lie for money.

22 A Yes, I did it, I did it. I did it
23 without thinking what I was doing. In a certain
24 way, if I thought thoroughly what I was doing,
25 maybe I wouldn't have done it.

1 C. Escalante Vargas

2 Q So when you lie with women, that,
3 you think through, but when you lie about money,
4 then you don't think through?

5 MR. McNAMARA: Objection.

6 Q Right? Yes or no?

7 A Well, yes, of course, because I am
8 thinking if I did it with the unemployment, it
9 was because I always had it in a way that Louie
10 always gave me the opportunity to do the
11 unemployment. Because in a certain way, he
12 didn't pay the union because it would cost him
13 more.

14 Q But you collected unemployment
15 when you were in Honduras in 2010 and 2011 when
16 you didn't even work for him.

17 A Yes, but I called, I called to the
18 unemployment because I hadn't spoken to Louie.

19 Q Right. So it wasn't Louie's fault
20 that you cheated the good people of the State of
21 New York in 2010 an 2011, right?

22 A No, it's not his fault.

23 Q It's not Louie's fault that you
24 lied to the good People of the State of New York
25 in 2004 and 2005?

1 C. Escalante Vargas

2 A Yes.

3 MR. VECCHIA: You can't keep
4 blaming everything on Louie.

5 Q It's not Louie's fault that you
6 lied to unemployment, correct?

7 A No, it's not his fault.

8 Q It's not Louie's fault that you
9 lie to women to sleep with you?

10 A Of course, not.

11 Q Let me ask you a question: Do you
12 feel guilty about lying to all these women to
13 sleep with them?

14 A Yes.

15 Q I don't believe you. You don't
16 look like you look guilty at all. You look like
17 the cat that just ate the bird.

18 A Yes, yes, if that is how you see
19 it.

20 Q Tell the truth. Are you going to
21 lie to women again in your future?

22 MR. McNAMARA: Objection.

23 A I am not. I have my daughters and
24 she is seventeen. Why would I do it knowing
25 that they are also women?

1 C. Escalante Vargas

2 Q I am not sure what you are trying
3 to say. But I am not suggesting that you would
4 lie to your daughters to sleep with them.

5 MR. McNAMARA: Objection.

6 A No. What I am saying is that why
7 should I keep on lying to women when my
8 daughters are also older now and somebody else
9 could do that to them?

10 Q And you are not going to lie to
11 unemployment anymore, right?

12 A Of course.

13 Q Because you got caught, right?

14 MR. McNAMARA: Objection.

15 A Yes. But -- and I paid my
16 penalty.

17 Q But if you didn't get caught, you
18 probably would still lie to them, right?

19 MR. McNAMARA: Objection.

20 A No.

21 Q How did you get caught by
22 unemployment?

23 A Because Louie called them.

24 Q When did Louie call them?

25 MR. VECCHIA: It's Louie's fault

1 C. Escalante Vargas

2 for everything.

3 A Yes, in 2010. He said that I had
4 abandoned the work, the job.

5 Q But in 2010 --

6 MR. VECCHIA: He said that he
7 collected unemployment.

8 Q In 2010, you were already working
9 for somebody else.

10 A Yes. But he cut the unemployment
11 at the end of January, beginning of December.

12 Q But from December to March, you
13 were in Honduras?

14 A Yes.

15 Q So if you were in Honduras from
16 December to March, you weren't entitled to
17 receive unemployment benefits, right?

18 A Yes.

19 Q Why is it Louie's fault that you
20 didn't get unemployment benefits from December
21 of 2009 to March of 2010? Can you explain that
22 to me?

23 A I received unemployment from
24 December to January, and they suspended the
25 unemployment, and then they didn't give it to me

1 C. Escalante Vargas

2 anymore.

3 Q Right. But from December to
4 March, you were in Honduras?

5 A Yes.

6 Q So you shouldn't have even gotten
7 it from December, correct?

8 A Yes.

9 Q In December, you testified that
10 you just told somebody to tell Louie that you
11 weren't coming to work because you were sick and
12 that was it, you were done.

13 A Yes.

14 Q Did you ever call Louie to tell
15 Louie that you were sick, you were not coming
16 in?

17 A No, I didn't.

18 Q Did you ever call Tommy?

19 A No, I didn't call him.

20 Q Did you ever call Chris?

21 A Neither.

22 Q Do you think you should have?

23 A Yes, I could have done it.

24 Q Not could have. Do you think you
25 should have?

1 C. Escalante Vargas

2 A I should have done it because then
3 I probably would have kept on working with him.

4 Q Right. You are not claiming that
5 you were retaliated against by Suffolk Paving,
6 are you?

7 MR. McNAMARA: Objection.

8 A No.

9 Q You are not claiming that you were
10 retaliated against by Suffolk Asphalt, are you?

11 MR. McNAMARA: Objection.

12 A Type of what?

13 Q Retaliated.

14 A Retaliated, I don't understand.

15 Q You are not claiming that because
16 this lawsuit was filed, that you were fired,
17 correct?

18 A No, no, no.

19 Q If anybody said that you were,
20 they would be lying, correct?

21 MR. McNAMARA: Objection.

22 A Yes.

23 Q Okay. Did you ever see a copy of
24 the complaint that was filed in this case?

25 A The copy of the --

1 C. Escalante Vargas

2 Q Of the complaint that was filed
3 with the Court.

4 A In a certain way, I haven't seen
5 it.

6 Q Have you ever seen it?

7 A No.

8 Q So you don't know if your attorney
9 put lies in it?

10 MR. McNAMARA: Objection.

11 A The truth is, I don't know. I
12 don't know.

13 Q Do you really want to sue Louie
14 Vecchia?

15 A Yes, for my hours that are
16 missing, for nothing else.

17 Q But you have no idea how much?

18 A That is the same thing. How can I
19 say it? It's just the hours, that's it. I
20 don't want more and I don't want less.

21 Q You have no idea of the jobs that
22 you worked on, right?

23 A The jobs that we worked were for
24 various years. I am not going to remember every
25 job we worked.

1 C. Escalante Vargas

2 Q Do you remember any of them?

3 A Yes.

4 Q Tell me all the jobs that you
5 remember.

6 A Waverly, Brentwood Park, Wilson,
7 Wilson Avenue, Broadway, Patricia Court, Martha
8 Park, Evergreen, Bellport, Port Jefferson,
9 Mastic Beach, Sound Beach Boulevard, Flower
10 Hill, Massapequa, Deer Avenue, in Ronkonkoma,
11 Setauket, all those places.

12 Q Do you remember when you worked in
13 all those places?

14 A The day, no.

15 Q Do you remember how many days you
16 worked in each of those places?

17 A Some one day, some two days.

18 Q That's it?

19 A Yes. We would go from one street
20 to another street to another street.

21 Q Your hours were different every
22 day you worked, correct?

23 A For days, yes, they were
24 different. Days that we worked twelve hours,
25 days that we worked ten hours, days that we

1 C. Escalante Vargas

2 worked thirteen hours.

3 Q And there were days that you
4 worked two hours?

5 A No.

6 Q There were days that you went home
7 early because of the rain, correct; yes or no?

8 A Yes, okay, when it rained.

9 Q There were full weeks that you
10 didn't work, correct?

11 A Full weeks, no.

12 Q There were some weeks that you had
13 days off in the middle of the week when there
14 was no work, correct?

15 A Days in the middle?

16 Q Just yes or no.

17 A No, I don't understand the
18 question.

19 Q There were some weeks that there
20 was not enough work for a full week, correct?

21 A There was always work. Even if it
22 was one or two days a week, it was only in the
23 wintertime when there was not work.

24 Q So sometimes during the season,
25 you would only work one or two days a week,

1 C. Escalante Vargas

2 correct?

3 MR. McNAMARA: Objection.

4 A Yes, correct.

5 MR. ZABELL: I am going to take a
6 break now.

7 (At this time a break was taken
8 from 2:04 p.m. until 2:19 p.m.)

9 Q Have you lied today?

10 MR. McNAMARA: Objection.

11 Q A little bit? You can say yes.

12 MR. McNAMARA: Objection.

13 A A little bit.

14 Q I don't want you to lie any more,
15 okay. Okay?

16 A Yes.

17 Q Now, were you ever provided a copy
18 of your complaint in Spanish?

19 MR. McNAMARA: Objection.

20 A Yes.

21 Q Did you read it?

22 A Yes, I read it a little bit.

23 Q You didn't read the whole thing?

24 A No.

25 Q What little bit of it did you

1 C. Escalante Vargas

2 read?

3 A The front where it said who we all
4 were.

5 Q Did you read the front where it
6 said who you were suing?

7 A No. All the ones that are there,
8 the names of all of us is the only thing, the
9 only thing that I read. The rest of it, I
10 haven't read.

11 Q Do you know the other people that
12 you are suing with?

13 A The ones that are there; Walter,
14 Renato, Nelson.

15 Q They are all your coworkers,
16 right?

17 A Yes, we were, some.

18 Q You said Renato didn't always
19 treat you nice, correct?

20 A He sometimes -- there was a
21 certain time when we had certain problems with
22 him, but work is work.

23 Q And sometimes he would lie to you,
24 correct?

25 A Well, if he said them to me, I

1 C. Escalante Vargas

2 don't know.

3 Q Sometimes Renato wasn't 100
4 percent honest with you, correct?

5 A Well, that is something only he
6 knows, because he was the boss.

7 Q Renato was the boss?

8 A Yes.

9 Q Did Renato ever give you cash?

10 A To me, no.

11 Q Never?

12 A No.

13 Q Did you ever do work with Renato
14 on Sundays?

15 A No.

16 Q Did you ever do work with Renato
17 on Saturdays?

18 A For the company, yes.

19 Q Not for him personally?

20 A No.

21 Q What about Pracelis Mendez, do you
22 know him?

23 A Yes.

24 Q Did you ever do work with Pracelis
25 Mendez on Sundays?

1 C. Escalante Vargas

2 A No.

3 Q Did you ever do work with Pracelis
4 Mendez on Saturdays?

5 A No. For the company, yes.
6 Sometimes they would send me with him.

7 Q Do you ever go to church?

8 MR. McNAMARA: Objection.

9 A The Catholic one.

10 Q What Catholic one?

11 A It's in Wyandanch.

12 Q When was the last time you went?

13 A About a month ago.

14 Q Why did you go?

15 MR. McNAMARA: Objection.

16 A I went to listen to the word.

17 Q Did you confess your sins when you
18 were there?

19 MR. McNAMARA: Objection.

20 A Sins, no.

21 Q Do you have any sins to confess?

22 MR. McNAMARA: Objection.

23 A We all have.

24 Q Do you want to confess them here
25 now?

1 C. Escalante Vargas

2 A No.

3 Q Do you want to tell me what some
4 of those sins are?

5 MR. McNAMARA: Objection.

6 A No.

7 Q These are sins, other than lying
8 to women to sleep with them?

9 MR. McNAMARA: Objection.

10 Q And lying to get money, right?

11 A To get money, no. That is why I
12 work. That is what I get paid for.

13 Q So you never lied to get money?

14 A That is what I am giving you to
15 understand.

16 Q Just answer yes or no.

17 A For money --

18 Q Did you ever lie to get money; yes
19 or no?

20 A No.

21 Q Even though you lied to
22 unemployment to get money, correct?

23 MR. McNAMARA: Objection.

24 A Yes, that's unemployment, but I
25 paid for it.

1 C. Escalante Vargas

2 Q But, wait, you lied to them in
3 order to get money, correct?

4 MR. McNAMARA: Objection.

5 Q Yes or no, yes or no?

6 A Okay, yes.

7 Q Okay. That is the only people
8 that you have ever lied to in order to get
9 money?

10 MR. McNAMARA: Objection.

11 Q You can say that you lied to other
12 people. It's okay. We all know the answer.

13 MR. McNAMARA: Objection.

14 Q Even Patrick knows the answer.
15 You can say it.

16 MR. McNAMARA: Objection.

17 A That is what happens. You are
18 asking me. You are saying to me. I am trying
19 to answer you, but you are asking me questions
20 and I'm answering.

21 Q Okay. You've lied to get money,
22 correct?

23 MR. McNAMARA: Objection.

24 Q Yes?

25 A Well --

1 C. Escalante Vargas

2 Q Yes? Just say it.

3 A With the unemployment, I made a
4 mistake.

5 Q You made a mistake by lying to
6 them, correct?

7 A If it was a lie that I did?

8 Q You lied to them. You told them
9 that you were ready, willing, and able to work
10 when you were vacationing in Honduras, correct?

11 MR. McNAMARA: Objection.

12 A Yes, correct.

13 Q That's a lie.

14 A Okay.

15 Q It's only a mistake because you
16 got caught, correct?

17 A That's what it is, yes.

18 Q There are other lies that you need
19 to confess to.

20 Do any of those sins involve
21 lying?

22 MR. McNAMARA: Objection.

23 A The sins that I have, I think
24 those are in the personal life of a person.

25 Q When you sue somebody, you open up

1 C. Escalante Vargas

2 your personal life, so answer my question now.

3 A Yes.

4 Q So some of those other sins
5 involve lying?

6 MR. McNAMARA: Objection.

7 Q Correct?

8 A I am not lying the whole time.

9 Q Not the whole time, but sometimes.

10 A When it's -- when it's -- when you
11 try to defend yourself.

12 Q Does your wife know that you lie
13 for money?

14 A No.

15 Q Does your wife know that you lie
16 to sleep with other women?

17 MR. McNAMARA: Objection.

18 A No.

19 Q Have you confessed for that?

20 A No.

21 Q Do you think you should?

22 A I think that I do have to do it
23 some day.

24 Q When do you think that day will
25 be?

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 A I don't know when, but some day it
4 will be.

5 Q Maybe tomorrow?

6 A No.

7 Q You are not ready?

8 A No.

9 Q There is still more lying in you?

10 A Lies, why?

11 Q Just answer my question.

12 A If I have to go confess to answer
13 you or what?

14 Q My question was: You still have
15 more lies in you, correct?

16 A No, no.

17 Q Do you want to correct your
18 answer?

19 MR. McNAMARA: Objection.

20 A No.

21 Q I am going to give you a minute to
22 rethink your answer.

23 MR. McNAMARA: Objection.

24 Q I want you to think about it.

25 MR. McNAMARA: Counselor, do you

1 C. Escalante Vargas

2 have any other questions?

3 MR. ZABELL: Yes. I am letting
4 him think.

5 MR. McNAMARA: He already told you
6 that he doesn't want to change his
7 answer.

8 MR. ZABELL: Counsel, that is
9 called a speaking objection. Your role
10 here is to sit there and be seen and only
11 object to the form of the question.
12 Beyond that, your role is to remain
13 silent.

14 MR. McNAMARA: Thank you for that.

15 MR. ZABELL: You're welcome.

16 Q Go ahead. You can answer now.

17 A No.

18 Q No, you don't want to answer?

19 A No, the answer to the question you
20 are asking me.

21 Q You got very quiet, all of a
22 sudden.

23 A You say if I'm laughing, it's
24 wrong, if I'm crying, it's wrong, if I'm
25 serious, it's wrong too.

1 C. Escalante Vargas

2 Q Are you feeling bad because of the
3 lies you told?

4 A Why? No, I try to say what it is.

5 Q So you are not feeling bad about
6 the lies you told?

7 MR. McNAMARA: Objection.

8 A The lies, the lies in what sense?
9 If what you are asking me is what I am answering
10 you.

11 Q The lies to your wife, the lies to
12 the other women, the lies to unemployment,
13 cheating the people of the great State of New
14 York.

15 MR. McNAMARA: Objection.

16 Q You don't feel bad about those
17 lies at all?

18 A Yes, I feel bad about the lies
19 that I told my wife, but it's something between
20 my wife and myself.

21 Q But you don't feel bad about the
22 lies that you told to the women?

23 A Yes, I feel bad, because the women
24 deserve respect also.

25 Q But you didn't respect them, did

1 C. Escalante Vargas

2 you?

3 MR. McNAMARA: Objection.

4 A Yes, those, I didn't respect.

5 Q And what about the people of the
6 great State of New York? Do you feel bad about
7 lying to them?

8 A Yes. That is why when they called
9 me to charge me, I accepted that they deducted
10 the money or that they charge me the money.

11 Q Well, didn't you collect
12 unemployment benefits in September of 2011?

13 A No.

14 Q Did you accept any benefits when
15 you were in Honduras in September of 2011?

16 A No.

17 Q Just December, January, and
18 February of 2011, correct?

19 MR. McNAMARA: Objection.

20 A Yes.

21 Q You did collect unemployment
22 benefits during that period of time, right?

23 MR. McNAMARA: Objection.

24 A Yes.

25 Q But you weren't ready, willing,

1 C. Escalante Vargas

2 and able to work, correct?

3 A Yes.

4 Q You were on vacation in Honduras?

5 MR. McNAMARA: Objection.

6 A Yes.

7 Q That is at least the second time
8 that you lied to the great People of the State
9 of New York, right?

10 A Yes.

11 Q New York has been pretty good to
12 you, right?

13 A Yes. I've been here, I've worked.

14 Q And you've lied, you've stolen
15 benefits, right?

16 A Yes, if I've done it. Who hasn't
17 done it? Not everything is -- not everything
18 always do -- we do the right thing.

19 Q I understand that. So not only
20 did you lie in December of 2010, you got caught
21 for that period of time and you had to pay back
22 money?

23 A Yes.

24 Q But then, you went ahead and did
25 it the next year too?

1 C. Escalante Vargas

2 A Yes. I called unemployment and I
3 collected unemployment.

4 Q Right.

5 A I received until February.

6 Q When you weren't able to work,
7 right?

8 A Exactly.

9 Q Did you tell Lauren Goldberg and
10 Ian Wallace that you were doing that?

11 MR. McNAMARA: Objection.

12 A No.

13 Q Yes?

14 A No.

15 Q Do they know that you did that?

16 A No.

17 Q Did they know that you committed
18 fraud?

19 A No.

20 Q You never told them that you
21 committed fraud?

22 MR. McNAMARA: Objection.

23 A No.

24 Q Do you know the type of fraud that
25 you committed is punishable by prison?

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 Q Did you know that?

4 A No, I don't know it.

5 Q You understand that there are
6 ramifications for everything that you've said
7 here today?

8 MR. McNAMARA: Objection.

9 A Yes.

10 Q Whether those ramifications be
11 with your wife in Honduras or the District
12 Attorney's Office here in New York; you are
13 aware of that, are you not?

14 A I don't understand the question.
15 Can you repeat it?

16 Q Sure. You admitted to committing
17 fraud. I am obligated to report that fraud.

18 MR. McNAMARA: Objection.

19 Q Your lawyer is obligated to report
20 that fraud, and there are ramifications for that
21 fraud.

22 MR. McNAMARA: Objection.

23 Q Meaning, there are penalties that
24 you are going to have to pay and a punishment
25 that you may receive.

1 C. Escalante Vargas

2 Have you been made aware of that?

3 MR. McNAMARA: Objection.

4 A No.

5 Q And if your wife was to find out
6 about all your lies and your fraud, there will
7 be penalties to pay there, as well, correct?

8 MR. McNAMARA: Objection.

9 A Penalties of what?

10 Q What will your wife do if she
11 finds out that you cheated on her?

12 MR. McNAMARA: Objection.

13 A I don't know what she would do.
14 If she tells me that I have to divorce, well,
15 that is what I have to do, because she would be
16 right.

17 Q Is that what you want?

18 A Not because of my daughters.

19 Q But if you divorce her, you can go
20 sleep with whoever you want.

21 A That's what I don't want now.

22 Q Do you feel the least little bit
23 guilty for what you have done?

24 MR. McNAMARA: Objection.

25 Q For the lying, the stealing, the

1 C. Escalante Vargas

2 cheating; no?

3 A No. I think that you are always
4 guilty when you, all of a sudden, you have had a
5 lot of -- really too many consequences.

6 Q So you don't feel guilty, right?

7 MR. McNAMARA: Objection.

8 A A little bit, yes.

9 Q Just a little bit, though?

10 A Yes.

11 Q Do you really want to continue
12 with this lawsuit?

13 MR. McNAMARA: Objection.

14 A Yes.

15 Q Just because you might get money,
16 right?

17 MR. McNAMARA: Objection.

18 A And if I don't get any money, it's
19 the same thing to me.

20 Q You took a shot, right?

21 MR. McNAMARA: Objection.

22 A That's how it is.

23 Q Just like lying to a woman, right?

24 MR. McNAMARA: Objection.

25 Q You took a shot, maybe you'll get

1 C. Escalante Vargas

2 lucky, maybe you won't?

3 MR. McNAMARA: Objection.

4 Q You never know unless you put it
5 out there, right? Right? You can say yes.

6 A Yes, that's correct.

7 Q Just like lying to unemployment?
8 You take a shot, maybe you'll get caught, maybe
9 you won't, but you are going to take a shot
10 anyway.

11 MR. McNAMARA: Objection.

12 Q Yes or no?

13 A That I am going to do it again? I
14 don't think so, because I am learning the
15 consequences that I have, so I don't think so.

16 Q But instead, it's okay that you
17 sue a good man who helped you and help provide
18 for your family, who treated you fairly and
19 honestly, but you are going to take a shot,
20 because whatever money he has, you want?

21 MR. McNAMARA: Objection.

22 Q Right?

23 A No.

24 Q But that is exactly what you are
25 doing, isn't it; yes or no?

1 C. Escalante Vargas

2 MR. McNAMARA: Objection.

3 Q Yes or no?

4 A No.

5 Q The money that he has in his
6 pocket, you want, right?

7 MR. McNAMARA: Objection.

8 Q Yes or no?

9 A The hours that he owes me, yes.

10 Q But you have no idea what those
11 hours are or even if they exist, correct?

12 MR. McNAMARA: Objection.

13 Q Correct?

14 A No. The hours that he owes me has
15 to be accountability and he would have to know.

16 Q You have to know. The burden is
17 yours.

18 Who is going to believe a liar, a
19 cheat?

20 MR. McNAMARA: Objection.

21 Q And a thief?

22 MR. McNAMARA: Objection.

23 Q Do you understand that?

24 A Yes. If -- if this -- if it comes
25 to that he has to pay the hours and he doesn't

1 C. Escalante Vargas

2 pay them, I don't care. It's the same thing to
3 me. What do I mean? I mean, at least now, we
4 know that he was failing in not paying the
5 hours. And that is money that comes out or
6 doesn't come out, it's the same to me. Because
7 I've worked and I've done something with what
8 I've worked. I have been able to do something
9 in my country.

10 Q That thing that you've done in
11 your country is just sleep with other women,
12 correct?

13 MR. McNAMARA: Objection.

14 A No.

15 Q This is only about sleeping with
16 other people and stealing money, correct?

17 MR. McNAMARA: Objection.

18 A I haven't always been lying to a
19 woman. I also haven't been stealing. In my
20 country, I have done my own things with the
21 money that I have earned here.

22 Q So you only steal in this country?

23 A When have I stolen? I haven't
24 stolen. With unemployment, if I made a mistake,
25 I did it and I accept it.

1 C. Escalante Vargas

2 Q You made a mistake, you accept it,
3 but you did it again the next year?

4 MR. McNAMARA: Objection.

5 Q Let's be honest with each other.
6 You're a liar, you're a thief, you're a cheat,
7 and you are only here because the money he has
8 in your pocket, you want.

9 MR. McNAMARA: Objection.

10 Q Right?

11 A No, no.

12 Q Stop it. Now we all know you are
13 lying. Here is a man that treated you nicely,
14 he treated you fairly, he treated you honestly
15 and decently. You drag him in here, because
16 what he has in his pocket, you want.

17 MR. McNAMARA: Objection.

18 Q And you sue his wife and his son.
19 How decent are you?

20 MR. McNAMARA: Objection.

21 Q How decent are you, sir?

22 MR. McNAMARA: Objection.

23 A I feel normal. I feel normal.
24 Like I said it to you, if he pays money or not,
25 it's the same thing to me. It's the same thing

1 C. Escalante Vargas

2 to me. I am still going to be the same person.

3 I am still going to keep working so that I can

4 support my family.

5 Q You are still going to be the same

6 liar, cheating thief?

7 MR. McNAMARA: Objection.

8 A Okay.

9 Q Right, okay?

10 A Okay, if you say so. If you say

11 so, then you can say that.

12 Q I do say so.

13 A I do know who I am.

14 Q I do say so. You agree with me,

15 correct?

16 A No, I am not in agreement with

17 you.

18 Q You already testified that you are

19 a liar, a cheater, and a thief. You already

20 testified to that.

21 A If you say so, then you can keep

22 that.

23 Q No, I say you say so. That is

24 what you said.

25 A No, you are the one saying it. I

1 C. Escalante Vargas

2 have not answered that.

3 Q Sure, you did. You can deny it
4 now, but you did say it.

5 MR. McNAMARA: Objection.

6 Q Did you ever go into the office at
7 Suffolk Asphalt?

8 A Yes, I went.

9 Q Did you ever go into the office at
10 Suffolk Paving?

11 A Yes.

12 Q I am going to show you a document
13 identified as Exhibit 5. (Handing.)

14 A (Reviewing document.)

15 Q Have you ever seen that document
16 before?

17 A No.

18 Q That is a picture of the bulletin
19 board that's there, is it not?

20 A I don't know.

21 (Continued on next page.)

22

23

24

25

1 C. Escalante Vargas

2 Q You don't know, okay, I'll take
3 that back.

4 A I haven't seen it.

5 MR. ZABELL: Sir, I am letting you
6 know that I hope your daughters never
7 meet a man like you.

8 MR. McNAMARA: Objection,
9 Counselor.

10 MR. ZABELL: I am going to ask
11 that you leave my office right now. I am
12 not even going to allow you to take the
13 cookies.

14 THE WITNESS: Okay.

15 (Time Noted: 2:50 p.m.)

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A C K N O W L E D G M E N T

STATE OF NEW YORK)

:ss

COUNTY OF)

I, CARLOS ALBERTO ESCALANTE VARGAS s/h/a
CARLOS ESCALANTE, hereby certify that I have read the
transcript of my testimony taken under oath in
my deposition of October 29, 2011; that the
transcript is a true and complete record of my
testimony, and that the answers on the record as
given by me are true and correct.

CARLOS ALBERTO ESCALANTE VARGAS
s/h/a CARLOS ESCALANTE

Signed and subscribed to before me this
_____ day of _____, 2011.

Notary Public, State of New York

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C E R T I F I C A T E

I, JAIME DOCHTERMANN, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

JAIME DOCHTERMANN

ERRATA SHEET

I wish to make the following changes for the following reasons:

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